

# COUNCIL COMMITTEES

## A G E N D A

March 8, 2004 - 5:45 P.M. - Council Chambers - City Hall - City of Dover

### **LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE**

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

#### AGENDA ADDITIONS/DELETIONS

1. Evaluation of Bids
  - A. City Hall Roof Repairs
  - B. William Street Warehouse Roof Repairs
2. Discussion - Charter and Code Review

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

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

There will be no Parks, Recreation, and Community Enhancement Committee Meeting held on March 8, 2004.

### **SAFETY ADVISORY COMMITTEE**

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

There will be no Safety Advisory Committee Meeting held on March 8, 2004

### **TRANSPORTATION REVIEW AND UTILITY COMMITTEE**

*The Transportation Review Committee Meetings are scheduled to be held on Tuesday following the Second Monday of each month at 12:00 noon in the Caucus Room at City Hall.*

*The Utility Committee Meetings are scheduled to be held on the Tuesday following the Second and Fourth Monday of each month at 4:30 p.m. in the Caucus Room at City Hall.*

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## **ACTION FORM**

<b>PROCEEDING:</b> Legislative, Finance & Administration Committee	<b>AGENDA ITEM NO.:</b> 3/8/04 – 1A
<b>DEPARTMENT OF ORIGIN:</b> Central Services	<b>DATE SUBMITTED:</b> 02/24/04
<b>PREPARED BY:</b> Ed Baker, Central Services Director	
<b>SUBJECT:</b> City Hall Roof Repairs	
<b>REFERENCE:</b> N/A	
<b>RELATED PROJECT:</b> N/A	
<b>APPROVALS:</b> City Manager and Finance Director	
<b>EXHIBITS:</b> N/A	
<b>EXPENDITURE REQUIRED:</b> \$ 46,510.00*	<b>AMOUNT BUDGETED:</b> \$ 0.00
<b>FUNDING SOURCE (Dept./Page in CIP &amp; Budget):</b> Capital Asset Reserve	
<b>TIMETABLE:</b> Contract must be awarded by March 26, 2004	
<b>RECOMMENDED ACTION:</b> Award contract for roof repair to second low bidder, Quality Exteriors, Inc.	

\*Additional cost may be necessary after construction begins (see comments below). The City Manager may authorize a change order for up to 25% of the contract price.

### **BACKGROUND AND ANALYSIS**

The roof on City Hall is damaged and requires emergency repair due to serious leaking. The current roof (installed in 1985) is out of warranty and has exceeded its expected lifetime. Minor leaking began in 2002, and roof replacement was planned for inclusion in the FY 2005 budget.

An invitation for bid was sent to 11 local contractors. Nine bids were received.

Vendor Name	Bid bond	Bid Price	Comments
DA Nolt, Inc.	Yes	\$68,094.00	N/A
Delmarva Roofing & Coating, Inc.	Yes	\$50,900.00	Substitute item.
Gooding Delaware, Inc.	Yes	\$94,400.00	Additional costs: Wood deck replacement - \$5.00 SQF Wood Blocking Repl - \$3.25 LFT
HK Griffith, Inc.	Yes	\$79,500.00	Additional costs: 500 SQF wood decking - \$4,000.00 Carlisle 30" X 30" pads - \$30.00 each
P & C Roofing, Inc.	Yes	\$71,300.00	Additional costs: Walk pads - \$35.00 each Tongue and groove deck - \$4.50 SQF
Quality Exteriors, Inc.	Yes	\$46,510.00	Additional costs: Walk pads - \$25.00 each Tongue and groove deck - \$4.00 LFT

Vendor Name	Bid bond	Bid Price	Comments
Tri-state Roofers	Yes	\$45,144.00	500 SQF wood deck repl. - \$5,000.00
Wilkinson Roofing & Siding, Inc.	Yes	\$57,700.00	
WP Mahon, Inc.	Yes	\$54,969.00	

Quality Exteriors, Inc. is the second low bidder and was chosen based on their price and the quality of their workmanship. They have done other roofing jobs for the City including the police station roof. They are located in the area in the event that any warranty work is required. The award of this bid to Quality Exteriors, Inc. will provide continuity within the City. The difference between the low bidder and Quality Exteriors is only \$1,366.00 or 3.1%.

## **ACTION FORM**

<b>PROCEEDING:</b> Legislative, Finance and Administration Committee	<b>AGENDA ITEM NO.:</b> 3/8/04 – 1B
<b>DEPARTMENT OF ORIGIN:</b> Central Services	<b>DATE SUBMITTED:</b> 2/24/04
<b>PREPARED BY:</b> Ed Baker, Central Services Director	
<b>SUBJECT:</b> William Street Warehouse Roof Repairs	
<b>REFERENCE:</b> N/A	
<b>RELATED PROJECT:</b> N/A	
<b>APPROVALS:</b> City Manager and Finance Director	
<b>EXHIBITS:</b> N/A	
<b>EXPENDITURE REQUIRED:</b> \$ 94,300.00*	<b>AMOUNT BUDGETED:</b> \$ 0.00
<b>FUNDING SOURCE (Dept./Page in CIP &amp; Budget):</b> Capital Asset Reserve	
<b>TIMETABLE:</b> Contract must be awarded by March 26, 2004	
<b>RECOMMENDED ACTION:</b> Award contract for roof repair to low bidder, Quality Exteriors, Inc.	

\*Additional cost may be necessary after construction begins (see comments below). The City Manager may authorize a change order for up to 25% of the contract price.

### **BACKGROUND AND ANALYSIS**

The Presidents' Day storm in 2003 resulted in severe damage to the William Street Warehouse roof. The efforts taken to relieve the stress caused by the weight of the snow exposed flaws in the roof and caused subsequent severe leaking. Warehouse storage racks have become rusted. Property had to be relocated to prevent damage. The current roof (installed in 1985) is out of warranty and has exceeded its expected lifetime. Minor leaking began in 2002, and roof replacement was planned for inclusion in the FY 2005 budget.

An invitation for bid was sent to 11 local contractors. Eight bids were received.

Vendor Name	Bid bond	Bid Price	Comments
DA Nolt, Inc.	Yes	\$137,708.00	N/A
Gooding Delaware, Inc.	Yes	\$137,200.00	Additional costs: Steel deck replacement - \$6.00 SQF Wood Blocking Repl - \$3.50 LFT
HK Griffith, Inc.	Yes	\$106,600.00	Additional costs: Replacement metal decking - \$8.00 SQF Carlisle 30" X 30" pads - \$30.00 each
P & C Roofing, Inc.	Yes	\$117,680.00	Additional costs: Walk pads - \$35.00 each Metal deck replacement - \$4.85 SQF
Quality Exteriors, Inc.	Yes	\$94,300.00	Additional costs: Walk pads - \$25.00 each Steel deck replacement - \$5.50 SQF Other options are included in their bid.

Vendor Name	Bid bond	Bid Price	Comments
Tri-state Roofers	Yes	\$108,714.00	Additional costs: Walk pads - \$22.50 each Metal deck replacement - \$5.50 SQF
Wilkinson Roofing & Siding, Inc.	Yes	\$107,440.00	
WP Mahon, Inc.	No	\$98,969.00	Non-responsive bidder.

There could be additional costs, as indicated, based on the amount of damage to the steel decking. These additional costs are unknown.

In addition to being the low bidder, Quality Exteriors, Inc. has offered deductions in their bid. Once the work is in progress, it can be determined if either of the deductions can be used. The first is to leave the existing insulation in place and recover it with an additional ½” of insulation. This would result in a savings of \$13,200.00. The second is to leave the existing insulation in place and recover it with an additional 1” of insulation. This would result in a savings of \$10,845.00.

Upon review of the bids, Quality Exteriors, Inc. was chosen based on their price, the potential of a substantial discount, and the quality of their workmanship. They have done other roofing jobs for the City including the police station roof and are located in the area in the event that any warranty work is required.

**Key: Comments/Suggestions received have been included and noted as follows:**

**“City of Dover” Reincorporation - Red**

**Council President McGlumphy - Blue**

**Councilman Salters - Green**

**Committee Member Gorman - Purple**

**Councilman Ritter - Orange**

**Councilman Ruane - Brown**

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**Sec. 4. Government vested in mayor and city council.**

The government of the said city and the exercise of all the powers conferred by this Charter (except as otherwise provided herein) shall be vested in a mayor and city council.

**Gorman: I would change the wording to read “vested in the city council and a Mayor.”**

**Ritter: Recommended during the 12/08/03 Committee Meeting that wording be provided from *Model City Charter* which states “All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.**

**Sec. 5. Council to be legislative body; size; districts; terms of mayor and councilmen; qualifications.**

The council shall be the legislative body of the city and composed of ~~eight (8)~~ **nine (9)** members nominated and elected as herein ~~before provided until the second Monday of May 1989 at which time and thereafter council shall be composed of nine (9) members as hereinafter~~ provided.

**Ruane: Referring to the Council as “the legislative body” of the city appears to be too narrow a reference for delineating all its powers and duties, which also include, among others, “deliberative, supervisory; and policy making” powers and duties, as noted in the commentary on page 5 of the Model Charter, where a broader statement is suggested, as follows:**

**All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.**

In order that the members of council shall be distributed over the city, the city shall be divided into ~~districts. For the April 1988 regular municipal election, the city shall remain divided into four (4) election districts previously established by council. For the April 1989 regular municipal election and for each election thereafter, the city shall be divided into~~ four (4) election districts, the district boundaries of which shall be established by council so that the districts are nearly equal in population as shown by the ~~1980 most recent~~ federal decennial census. The district boundaries established for ~~the April 1989 regular~~ municipal elections shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware, at which time council shall redistrict the city so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election, which procedure shall be followed by council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.

**Ruane: Given the recent discussion in the Council about “redistricting”, this section should be reexamined.**

The Model Charter recommends a separate “Elections” article to cover redistricting, as well as methods of electing council members, and related topics, whereas the current Dover Charter includes a reference to redistricting here in section 5 and the general provisions for election dates, nomination petitions, etc. in sections 6,7 & 8 of Article II, Mayor and Council.. I suggest we incorporate all “election” provisions (including redistricting requirements and responsibilities) in a separate Article, after comparing our current provisions with those recommended on pages 39-53 of the Model Charter.

Initiative, Citizen Referendum, and Recall should be considered as part of this evaluation.  
(see pages 48-53 of Model Charter)

The ~~term of the mayor elected at the April 1988 regular municipal election shall be for a term of two (2) years from the second Monday of May 1988 until the second Monday of May 1990 or until his successor has been duly elected and qualified. Thereafter, commencing with the regular municipal election to be held in April of 1990 and thereafter, the~~ term of mayor shall be for a period of two (2) years commencing on the second Monday in May following his election and continuing for a term of two (2) years until the second Monday in May or until his successor has been duly elected and qualified.

The term of the councilmen shall be for two (2) years. In ~~the April 1988 regular municipal election, four (4) councilmen shall be elected by at-large voting with one councilman coming from each of the four (4) election districts then in existence. These four (4) councilmen shall take office on the second Monday of May of 1988 and their term shall expire on the second Monday of May 1990. In the regular municipal election held in April of 1989 after council has divided the city into four (4) election districts, five (5) councilmen shall be elected, four (4) of whom shall be elected by district voting from each of the districts as designated by council and one of whom shall be elected by at-large voting by all voters of the city, the term of these five (5) councilmen to commence on the second Monday of May of 1989 and terminate on the second Monday of May of 1991 with their successors being elected in the regular municipal election held in April of 1991 and each two (2) years thereafter. At the regular municipal election held in April of 1990, four (4) councilmen shall be elected by district voting from each of the four (4) districts as designated by council, which councilmen shall serve a term commencing the second Monday of May 1990 and terminating the second Monday of May 1992. Commencing with the regular municipal election to be held in April of 1991, as herein provided, and each two (2) years thereafter, each regular municipal election held in an odd numbered year, five (5) councilmen shall be elected, four (4) by district voting being from the districts and one at-large as stated herein. In the each regular municipal election held in April of 1992 and every two (2) years thereafter, an even numbered year, four (4) councilmen shall be elected by district voting from each of the districts of the city.~~

Ruane: The Model Charter, on pages 6-7, recommends four-year, staggered terms without any restrictions against reelection to subsequent 4-yr terms. I agree with extending Dover's terms to 4 years; however, I think we should consider the pros and cons of limiting reelection to only two 4 yr terms.

I think the current composition of the Council of nine members, with two elected from each of four districts and another at large avoids the tied vote dilemma that would be created by reverting to an eight person Council. The election by district for eight of the members avoids the kind of challenges that can come from the Voting Rights Act and related court cases.

In order to be eligible to be elected as mayor or as a member of council, the person must as of the date of the election be:

- (1) A citizen of the United States and of the State of Delaware;
- (2) A resident of the city and having continuously resided therein or in an area annexed to the city during the two (2) years next preceding the day of the election;
- (3) A resident of the election district from which he is seeking election, unless he is seeking election as an at-large councilman or mayor;
- (4) Twenty-one (21) years of age; and
- (5) Nominated therefor, as hereinafter provided.

**Ruane: The Model Charter, at page 6, limits election eligibility simply to a requirement that the candidate be a "registered voter" of the city. The commentary argues that we live in an era of great mobility so that residence requirements, like Dover's "2 years", do not have the validity they once had.**

**Dover's requirement that a candidate be 21 yrs old seems to me to be inconsistent with the voting age eligibility of 18 yrs. If an 18 yr old can vote, why shouldn't an 18yr old be eligible for election if he/she meets the other requirements ?**

**The nomination requirement appears to me to represent a perfunctory procedure that may not be meeting the intent. Candidates appear to simply be appealing to family members and neighbors in many instances. Are these 10-25 signatures really an indication of broad voter support? Are the reasons for such nominations still persuasive to continue this practice?**

If a councilman files and runs for mayor, whether or not he is elected to said office, the term as councilman shall automatically expire on the second Monday of May on the year of the election; and if he has a year remaining on his term, then his office as councilman shall be filled at the same annual election in which he has filed to run for the office of Mayor. (47 Laws of Del., Ch. 219, § 1, 6-8-49; 54 Laws of Del., Ch. 165, § 1, 12-6-63; 61 Laws of Del., Ch. 147, § 1, 7-14-77; Laws of Del., Ch. 5, § 16, 1-20-83; Amd. of 7-8-86(H.B. No. 260); Amd. of 7-16-87(H.B. No. 231, § 1); 66 Laws of Del., Ch. 365, § 1, 7-12-88)

**Gorman: I recommend the city return to 8 council members - 2 from each of the 4 districts. Drop the at-large council position.**

**To do this the Consent Decree will have to be challenged and resolved.**

**The terms of both mayor and council should be four (4)years.**

**Salters: Change term to four (4) years. Everything else is okay. We need to discuss the whole process. Too many to list here.**

**Ritter: Recommended during the 12/08/03 Committee Meeting that the last paragraph be eliminated so that a Councilman wishing to run for Mayor does not have to relinquish their position on Council. He also suggested a new Section/paragraph to provide language that would prohibit a member of Council from running for 2 elected positions at the same time.**

**Ruane: Recommended during the 12/08/03 Committee Meeting that item #4 be changed for the age requirement to be 18 years of age.**

**This "resign to run""qualification", which was only added in 1988, should be deleted from the Dover Charter for the following reasons:**

Councilpersons should not have their fundamental right to run for public office restricted unless there is a legitimate and compelling government interest that outweighs this fundamental right.

What is the legitimate and compelling interest that justifies this restrictive "qualification" for the office of Mayor? The Charter does not provide one; nor do the minutes of the meeting where this clause was adopted by a previous Council appear to contain any such justification.

While the city government has a legitimate interest in ensuring that councilpersons not simultaneously hold (or run for) two official citizen-elected city positions, the city government does not have the right to cut short the unfinished term of a councilperson simply because that person may choose, before his/her term has expired, to run for the office of mayor.

The interest of city government in preventing someone from simultaneously holding (or running for) two citizen-elected positions at the same time can be satisfied without this impermissible barrier to candidacy for the position of mayor. The city can legitimately require an individual whose councilmatic term has not ended to resign from his/her councilmatic seat after he/she is elected as mayor so that he/she would not be holding two citizen-elected positions at once. The legitimate basis for this would be that the individual would not be reasonably expected to avoid the conflicts inherent in the two positions as determined in the city's charter and code. (Although it is worth noting that councilpersons do simultaneously hold both positions in a number of jurisdictions where the Mayor is elected from and by the council; and not by the citizens in an election.)

The city can also restrict an individual from simultaneously running for two citizen-elected positions on the same basis.

If satisfying these legitimate concerns was the intent of this paragraph, then the paragraph should be revised to reflect this.

The Model Charter, on pages 13-14, provides some guidance about prohibiting council members from simultaneously holding "any other elected public office during the term for which the member was elected to council" (emphasis added). The recommendation prohibition goes even further by recognizing potential conflicts of interest that "former" council members might have in cases where they later hold any other "compensated appointive office or employment with the city". Dover might benefit by incorporating such language into its Charter. (See Section 2.05 of the Model Charter.)

**Another Issue:** There is also another point that should be made concerning this "qualification".

The two year terms of Dover's council persons are staggered, with four members and the at large member running in one year and the other four and the Mayor running in the next year.

Because the term of office for Mayor and some councilpersons do not correspond, this restrictive qualification does not affect all councilpersons equally. It is more onerous on those councilpersons

whose terms do not end when the Mayor's term ends. Councilpersons whose terms correspond with the Mayor's term do not have to relinquish a year of their term in order to file for the Mayor's position, They simply have a choice of which office to seek.(assuming that Dover's Charter prohibits someone from simultaneously running for two elected positions. Does it ?)

If these arguments are not persuasive and this restriction remains in the city's charter, there should at least be some requirement added that would allow more time for a candidate for the councilmatic position being vacated to file for the position. As it now stands, someone. Can wait until Jan.31 before filing a petition for the mayoralty position, thus giving prospective candidates for the position being vacated only until Feb 13 to file for that future vacancy.

**Ruane:** Why are we skipping sections 6,7,8 & 9 ? These refer to matters which have become points of discussion in the past year. For example, in section 7 the charter states that "the candidate for the office of Mayor who receives the highest number of votes" cast for that office shall be declared to be elected to that office.(emphasis added)

In the light of the number of candidates who have filed for the Mayor's position this year, perhaps the Council should re-evaluate the benefits of having a different method for determining the winner in an election where there is a large filed of contenders. The Model Charter, on pages 41-42 refers to "the instant runoff" as a method that better assures that a victor has a credible claim of majority support.

Other issues included in these sections are:

the separation of the Dover election from the state and national election dates when the voter turnout is generally more significant.

the composition and function of the Election Board

the role of the Council President and the method of presenting the Council appointments at the Annual Meeting

I recommend that these sections be included in the Charter review, particularly section 9 Meetings of mayor and council-generally.

**Council President:** the first mention of this position is in Sec.9 in the second paragraph which states that the members of council shall elect one of their members to serve as council president. I think a separate section should be developed to delineate the role and duties of this position, just as there are sections delineating the duties of both the Mayor (at Sec.14) and the City Manager (Sec/33).

#### **Sec. 10. Same--Procedure.**

Five (5) of the members elected to the council shall constitute a quorum to do business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

No ordinance, resolution, motion or order shall be valid unless it shall have (1) the affirmative vote of a majority of the members elected to the council, and (2) the written approval of the mayor, or the vice-mayor in those cases where the

vice-mayor is authorized to act as mayor as provided in section 15 hereof, provided that in the absence of such approval by the mayor, or the vice-mayor as the case may be, the council may, after not less than seven (7) days nor more than thirty-five (35) days after the prior vote, pass or adopt the said ordinance, resolution, motion or order which did not receive the approval of the mayor, or the vice-mayor, by the affirmative vote of two-thirds of the members elected to council.

Whenever the council shall adopt an ordinance, resolution, motion or order, it shall be the duty of the mayor, or the vice-mayor, to signify his approval or disapproval thereof in writing to the clerk of the council within seven (7) days thereafter. The clerk of the council shall forthwith notify the members of the council of such approval or disapproval.

Motions to adjourn meetings of council and orders to compel the attendance of absent members shall not require the approval of the mayor or vice-mayor.

A councilman may abstain from voting on a matter that he feels would involve the consideration of his own official conduct, on a matter in which he has a financial interest, in a matter in which he has a conflict of interest or in accordance with a policy adopted by council.

The yeas and nays shall be taken upon the passage of every ordinance and resolution and entered together with the text of the ordinance or resolution upon the journal of the proceedings of the council. The journal shall be deemed conclusive evidence of the facts stated therein except in the case of fraud.

(60 Laws of Del., Ch. 457, §§ 3, 4, 6-11-76; 66 Laws of Del., Ch. 365, § 7, 7-12-88)

**Gorman: I would remove all language referencing a vice-mayor.**

**Salters: This section should remain the same. Do not let personalities interfere with good governmental procedures and policies.**

**McGlumphy: The 4<sup>th</sup> paragraph should read as follows:**

**Motions to adjourn meetings of council, orders to compel the attendance of absent members, and appointments of members of council to council standing committees, shall not require the approval of the Mayor or vice-Mayor.**

**Ruane: I recall an opinion that the City Solicitor issued regarding what constitutes a "quorum". Perhaps the Committee should review this opinion when considering this section to see whether some clarifying language should be added.**

**The idea of a lesser number of council members "adjourning" for a meeting and "compelling" the attendance of absent members seems vague. Even though procedures for doing so may be "prescribed by ordinance", I believe this paragraph should be revised to reflect the requirements of the state's "open" meeting law.**

**There also does not appear to be any recognition in the Charter for the Committee system that the Council currently utilizes to do some of its business. Since the meetings of these committees are the primary occasion for when "a less number" of councilpersons meet, perhaps this is the place in the Charter when the use of committees should be recognized and described in general terms.**

**Sec. 14. Duties of mayor.**

The mayor shall be the executive and chief official of the city. He shall have the powers and perform the duties conferred and imposed by this Charter and ordinances of the city. ~~Prior to the second Monday in May of 1990, The mayor shall preside at all meetings of the council, but after the second Monday in May of 1990, the the annual meeting of the council and at all quarterly town meetings. The council president shall preside at all meetings of the council with the exception of the annual meeting and quarterly town meetings which shall be presided over by the Mayor. other meetings of the council.~~ The mayor shall have no vote on council matters of any nature whatsoever. The mayor is an ex officio member of all committees, but shall have no vote.

(60 Laws of Del., Ch. 457, § 6, 6-11-76; 66 Laws of Del., Ch. 365, § 8, 7-12-88)

**Sec. 23. Power of council to create city planning commission; members generally.**

The council may create a city planning commission for the development, improvement, and beautification of the city, and prescribe its powers and duties. No member of the planning commission may hold at the same time, any elected city office.

Members of any planning commission created by the city shall consist of two (2) members from each council district and one member serving at large.

All members of the planning commission must be residents of the City of Dover.

Each appointed member of the commission shall receive per diem reimbursement for expenses to be paid quarterly for preparation and attendance at each meeting of the planning commission attended in an amount to be set by council.

(60 Laws of Del., Ch. 457, § 8, 6-11-76; 64 Laws of Del., Ch. 5, § 13, 1-20-83; Amd. of 6-29-87, § 2(H.B. No. 228, § 2))

**Sec. 33. The city manager [generally].**

The council shall appoint a city manager who shall be the chief administrative officer of the city. He need not, when appointed, be a resident of the city or the state. No member of the council shall, during the time for which elected, be chosen as city manager. The manager shall be appointed for an indefinite term but shall be removable at the pleasure of the council. Before the manager may be removed he shall, if he so demand, be given a written statement of the reasons alleged for his removal and the right to be heard publicly thereon at a meeting of the council prior to the final vote on the question of his removal, but pending and during such hearing the council may suspend him from office. The action of the council in suspending or removing the manager shall be final, it being the intention of this ~~charter~~ **Charter** to vest all authority and fix all responsibility for such suspension or removal in the council. In case of the absence or disability of the manager the council may designate some qualified person to perform the duties of the office during such absence or disability.

**Editor's note:** That portion of the catchline to the section which is not encased in brackets [ ] appeared in the original charter as enacted. Any part which is encased in brackets [ ], has been added by the editor for clarity.

**Gorman: I would add all council appointed personnel to this section and follow the same protocol.**

**Sec. 34. Responsibility of manager; powers of appointment and removal.**

The city manager shall be responsible to the council for the proper administration of all affairs of the city placed in his charge, and to that end, except as otherwise provided herein, he shall have the power to appoint and remove all employees in the administrative service of the affairs of the city under his charge. All such appointment shall be without definite term.

**Editor's note:** The catchline to this section appeared in the original charter as enacted.

**Sec. 35. Removal of employees [by manager.]**

Employees appointed by the city manager, or under his authorization, may be removed by him at any time. The decision of the manager in any such case shall be final and there shall be no appeal therefrom to any other officer, body or court whatsoever.

**Editor's note:** That portion of the catchline to this section which is not encased in brackets [ ] appeared in the original charter as enacted. Any part which is encased in brackets [ ], has been added by the editor for clarity.

**Salters: I think the Council should be the appeal agency. No one person should have the right to dismiss someone without a hearing.**

**Sec. 36. Council not to interfere with appointments or removals [of manager; giving orders to subordinates of manager prohibited; penalty for same.]**

Neither the council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager or any of his subordinates, or in any manner take part in the appointment or removal of employees in the administrative service of the affairs of the city under the charge of the manager. Except for the purpose of inquiry, the council and its members shall deal with that portion of the administrative service for which the manager is responsible solely through the manager, and neither the council nor any member thereof shall give orders to any subordinate of the city under the city manager either publicly or privately. Any violation of the provisions of this section by a member of the council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the member so convicted.

**Editor's note:** That portion of the catchline to this section which is not encased in brackets [ ] appeared in the original charter as enacted. Any part which is encased in brackets [ ], has been added by the editor for clarity.

**Salters: Leave as is. I do however think that the City Manager should be smart enough to confer with Council on his appointees.**

**Sec. 37. Duties of the manager.**

It shall be the duty of the city manager to supervise the administration of the affairs of the city under his charge; to make such recommendations to the council concerning the affairs of the city as may seem to him desirable; to keep the council advised of the financial conditions and future needs of the city; to prepare and submit to the council the annual budget estimate; to prepare and submit to the council such reports as may be required by that body; and to perform such other duties as may be prescribed by this ~~charter~~ **Charter** or required of him by ordinance or resolution of the council.

**Editor's note:** The catchline to this section appeared in the original charter as enacted.

**Gorman: The financial conditions of the city, future needs and the annual budget should emanate from the Director of Finances office. In today's environment, unless the City Manager has an educational background in Finance with 5 or more years of working experience he/she cannot be expected to be competent on all financial issues.**

**Stated differently, make the Director of Finance the Chief Financial Officer with total financial responsibility for the city's finances - reporting to the council.**

**Salters: I think the Financial Director should be responsible for preparing the budget, with the help of the director of Administrative Services.**

**Sec. 38. Right of manager [to sit] in council [meetings.]**

The city manager and such other officers of the city as may be designated by vote of the council, shall be entitled to seats in the council, but shall have no vote therein.

**Editor's note:** That portion of the catchline to this section which is not encased in brackets [ ] appeared in the original charter as enacted. Any part which is encased in brackets [ ], has been added by the editor for clarity.

**Salters: Leave as is; however, when council wishes to meet without the City Manager, we should have the right to do so. The City Manager is an appointed position and has no rights other than what council gives.**

**Sec. 39. Investigations by council.**

The council shall have power to inquire into the conduct of any office, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence.

**Editor's note:** The catchline to this section appeared in the original charter as enacted.

**Sec. 42. City treasurer; [signing of warrants.]**

At the annual meeting the council shall elect a city treasurer to hold office until the next annual meeting of the council, or until his successor has been duly chosen and qualified, but subject to removal at any time by the council.

The city treasurer shall be the custodian of all the city funds and shall deposit them in a banking institution designated by the council.

He shall pay out no money except upon warrant signed by the city manager and countersigned by the mayor.

The mayor and the city manager shall sign no warrants on the city treasurer except pursuant to appropriations or resolutions theretofore made by the council.

He shall keep a true and detailed account of all moneys received and of all moneys paid out by him. He shall preserve all vouchers for moneys paid by him. His books and accounts shall at all times be open to inspection by the council or the mayor or the city manager.

He shall make such reports and at such times as the council may direct.

The city treasurer shall be required to give bond in such amount and in such form and with such surety as the council shall determine or approve.

**Editor's note:** That portion of the catchline to this section which is not encased in brackets [ ] appeared in the original charter as enacted. Any part which is encased in brackets [ ], has been added by the editor for clarity.

**Gorman: This needs to be totally over hauled. Suggest we look at descriptions from other cities outside Delaware to develop a more up to date and inclusive description.**

**Sec. 43. Fiscal year.**

The fiscal year of the city shall begin the first day of July and shall end with the next succeeding thirtieth day of June.

**Sec. 44. Annual budget.**

On or before the second Monday of May of each year, the city manager shall prepare and submit to the council, a budget, presenting a financial plan for conducting the affairs of the city for the ensuing fiscal year. The total of proposed expenditures shall not exceed the total of anticipated income.

The budget shall include the following information:

1. A detailed statement showing the expenses of conducting each department and office of the city for the current year and last preceding fiscal year.
2. A detailed estimate of the expenses of conducting each department and office of the city for the ensuing fiscal year with reasons for the increases and decreases recommended.
3. The value of supplies and materials on hand.
4. The amount of the debt of the city together with a schedule of maturities of bond issues.
5. A statement showing the amount required for interest on the city debt and for paying off any bonds maturing during the year and the amount required for the sinking fund.
6. An itemized statement of all anticipated income of the city with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal years.
7. An estimate of the amount of money to be received from taxes.
8. Such other information as the city manager may think desirable or as may be required by the council.

The council shall on or before the second Monday in the month of ~~July~~ **June** in each year adopt a budget for the succeeding fiscal year. The council shall, so far as possible, adhere to the budget so adopted in the making of appropriations. (37 Laws of Del., Ch. 151, §§ 1, 2, 3-23-31; 64 Laws of Del., Ch. 5, § 12, 1-20-83; 67 Laws of Del., Ch. 7, § 1, 1-26-89)

**Gorman: Change the responsibility to the Director of Finance.**

**Salters: 8. As Finance Director may think desirable.**

**McGlumphy: Delete and replace July with June in the last paragraph.** *City Clerk Note: This suggestion has already been submitted to the General Assembly and so noted above.*

**Sec. 45. Payment of claims; issuance of warrants after approval of city manager; reports by manager thereon to council.**

No claim against the city shall be paid except on an order on the treasurer, signed by the city manager, and approved and countersigned by the mayor. The city manager shall examine all payrolls, bills and other claims and demands against the city and shall issue no warrant for payment, unless he finds that the claim is proper and in proper form and correctly computed. (64 Laws of Del., Ch. 5, § 11, 1-20-83)

**Salters: Leave as is. City manager serves as an extra security in this instant.**

**Sec. 46. Annual audit.**

Annually in the month of July the council shall have the finances of the city and the books and accounts of the city manager, the alderman and the city treasurer audited by a certified accountant.

As soon as practicable after such audit has been completed, the council shall cause to be made and published a report of the city's finances for the preceding fiscal year.

**Sec. 47. General assessment and levy on utility property.**

In the year ~~2001~~ 2004 and every third year thereafter, there shall be made a true, just, and impartial valuation and assessment of all real property within the city, locating each parcel of real property by street and number or other description. The valuation and assessment shall be made by an assessor or assessors who shall be elected by the Council at the previous December meeting by majority vote thereof. An assessor must be a freeholder within the corporate limits of the city. Before entering upon the duties of office, an assessor shall be sworn or affirmed by the Mayor to perform the duties of the assessor's office with fidelity and without favor or partiality.

In addition to an assessment every three years, the assessor or assessors shall include supplemental assessments made annually for the purposes of (1) adding property not included in the last assessment or (2) increasing or decreasing the assessment value of property which was included in the last general assessment.

The assessment made in the year ~~2001~~ 2004 and every third year thereafter and any supplemental assessments made annually shall be made prior to the first day of May in any given year and shall be known as the general assessment.

The general assessment shall be set down by the assessor or assessors in two (2) or more copies, as the Council shall direct, and shall be delivered to the Council as soon as made. The real property of the assessor or assessors shall be assessed by the Council. The Council shall, prior to the fifteenth day of May of ~~the year 2001 and of every year thereafter, each year,~~ cause a copy of the general assessment to be posted in two (2) public places in the city for ten (10) days.

The Council may direct that appeals from any general assessment be heard by a committee of not less than three (3) Council members appointed by the Council president. The committee of Council members shall sit at a stated place and time to hear the appeals of all taxpayers dissatisfied with the assessment of their properties, shall collect such information as they consider proper and necessary, and shall report their findings and recommendations to a meeting of the full Council. At the meeting of the full Council the recommendations of the committee shall be received, together with such other information as the Council shall permit or require, and the appeal of each dissatisfied taxpayer shall be heard. The Council shall have full power to correct, revise, alter, add to, deduct, and take from the general assessment. The decision of a majority of the Council members elected shall be final and conclusive. A Council member may not vote on his or her own appeal.

Notice of the place and time that a committee of Council members will sit to hear appeals and of the place and time that the full Council will sit to act on such appeals shall be posted with the general assessment in two (2) public places for a period of ten (10) days. Notice of the posting of the copies of the general assessment and of the place and time of the meetings of the committee of Council members and of the full Council to hear appeals shall be published in at least one issue of a newspaper published in the city.

The assessment as revised and adjusted by the Council shall be the basis for the levy and collection of taxes for the city.

The Council shall have the right to levy and collect taxes on gas mains, telephone, telegraph, communications systems, or trolley poles or other erection of like character within the limits of the city, together with the wires thereon strung; and to this end the Council may at any time direct the same to be included in or added to the general assessment.

Whenever Council shall direct, all real property in the City of Dover shall be assessed by a certified independent outside appraiser chosen by Council. This assessment shall be in lieu of the valuation and assessment made by a freeholder assessor elected by Council as described hereinabove and in lieu of the assessor's duties described hereinabove.

Nothing contained in this section shall be deemed or held to invalidate or otherwise effect any assessment made prior to the approval of this section or any tax levied thereunder.  
(Ord. of 1-22-01)

**Salters: Leave as is. The 10 year rule applies for the independent Tax Assessor.**

**Sec. 1-6. Sponsoring, consideration, passage and effective date of ordinances and charter amendments.**

No ordinance with the exception of emergency ordinances shall be passed by council until it is:

- (1) Announced at one regular council meeting, which announcement shall be made by the city clerk, outlining the nature of the ordinance and stated when it will be considered for passage at a subsequent regular council meeting; and
- (2) Read by synopsis, outline, or otherwise at the subsequent-announced meeting of council prior to being voted upon by council.

Emergency ordinances may be passed by council at any time but must be designated as such that their immediate passage is necessary to serve the health and welfare of the city. Ordinances shall be passed in accordance with the provisions of Section 10 of the Charter. All ordinances which do not state an effective date shall be effective immediately upon their adoption by council and their approval by the mayor except as otherwise provided in the Charter, Section 10.

With the exception of emergency ordinances, zoning ordinance or map amendments, ordinance amendments submitted by council appointed staff or a committee, and ordinances passed in consideration of a comprehensive review of the Code, all other ordinances or proposed charter changes must have three (3) sponsors to consist of three (3) members of council before they may be presented to the appropriate committee for consideration and subsequent recommendation to council. (Code 1968, § 1-8; Ord. of 3-12-90; Ord. of 7-10-95; Ord. of 2-12-01; Ord. of 11-24-03)

**Sec. 2-70. Compensation and expenses for mayor, council, employees and other elected or appointed officials.**

In accordance with Section 12 of the Charter, authorizing council to establish compensation and expenses for the mayor and council members, city employees and other elected or appointed officials, the following fees are hereby established:

- (1) The mayor shall receive an annual salary of forty-five thousand dollars (\$45,000.00), effective May 11, 1998. In addition, the mayor shall receive an expense allotment of up to five thousand dollars (\$5,000.00), to be included in the city's annual budget, for miscellaneous expenses, to be reimbursed upon submission of receipts or proper documentation. Expenses in excess of this amount shall only be permitted by council approval. The mayor shall be entitled to all benefits customary to an employee of the city with the exception of pension benefits and sick and vacation leave.

- (2) Each council member shall receive an annual salary of seven thousand four hundred sixteen dollars (\$7,416.00), to be paid monthly. The council president shall receive an annual salary of eight thousand six hundred fifty-two dollars (\$8,652.00), to be paid monthly. Council members shall receive reimbursement for actual and necessary expenses incurred when on official business as prescribed by ordinance or policy.
- (3) For members of council sitting to hear appeals from the municipal assessment for per diem reimbursement for expenses for the preparation and attendance of each meeting of the assessment appeals committee--Fifty dollars (\$50.00);
- (4) For each person not a city employee appointed to serve as an election judge for any municipal election for per diem reimbursement for expenses for each election attended--Two hundred dollars (\$200.00). For each person chosen to serve as a clerical assistant for any municipal election for per diem reimbursement for each election attended--One hundred fifty dollars (\$150.00).
- (5) For employees of the city appointed to serve as election judges or officials for any municipal election for per diem reimbursement for expenses for each municipal election attended in addition to their regular salary--One hundred fifty dollars (\$150.00).
- (6) For each appointed member to any city council committee not serving an elected term to any city office for preparation and attendance at each committee meeting to which the member is appointed--Seventy-five dollars (\$75.00);
- (7) For any city employee appointed to a council committee for reimbursement for expenses per diem for each meeting attended which is held after 5:00 p.m. on a scheduled workday or at any time on a weekend or city-approved holiday--Twenty-five dollars (\$25.00);
- (8) For each appointed member of the planning commission per diem reimbursement for expenses to be paid quarterly for preparation and attendance at each meeting of the planning commission--One hundred dollars (\$100.00).

(Ord. of 9-14-87; Ord. of 8-27-90; Ord. of 11-26-90, § 1; Ord. of 1-11-93; Ord. of 6-27-94; Ords. (2) of 2-24-97; Ord. of 1-10-00; Ord. of 1-10-00; Ord. of 10-9-00; Ord. of 1-22-01; Ord. of 6-24-02)

Secs. 2-71--2-73. Reserved.

**Gorman: I recommend the mayor's salary be 12K annually and the position revert to part-time.**

**The 5K in expenses should be adhered to completely. Also, all expenditures should be jointly approved by the President of Council and the Legislative and Finance Chairperson and should include a written report for the purpose, place, who was there and the result of the expense incurrence.**

**Also, the Economic and Community Development Funds should be changed to Council's budget and requested through the aforementioned people, with proper documentation, before being spent; by council or the mayor.**

#### **Sec. 2-91. Duties and responsibilities of the mayor.**

The mayor shall have all of those duties and responsibilities set forth in section 14 of the Charter. In addition thereto, the mayor shall be available on a full-time basis to interact with private citizens and business people, national, state and

county officials and representatives and civic and neighborhood associations to promote the economic and social interests of the city and the general welfare of its citizens.

(Ord. of 4-28-97)

Secs. 2-92--2-95. Reserved.

**Salters: Leave the first part as is. An independent group of citizens representing all districts should have a part in writing a detailed job description for the Mayor. I believe all views and concerns will be addressed with this make-up. A select group of civic minded citizens could do this.**

**Sec. 17-1. Planning commission.**

There is hereby created a planning commission. The members of the planning commission shall be appointed by the mayor subject to confirmation by council. The planning commission shall consist of nine (9) members serving three-year terms, two (2) members shall be selected from each council district and one member shall serve from the city at-large. The terms of the members shall be arranged so that each year the terms of three (3) members shall expire, the expiration date to be on June 1. Incumbent members of the planning commission shall continue to serve beyond the expiration of their term until a successor is appointed by the mayor and confirmed by council.

(Code 1968, § 2-68; Ord. of 10-12-70; Ord. of 6-27-94)

**Ritter: Recommended that there be a total of eleven members to consist of the Director of Planning and Inspections, the Mayor having one (1) appointment, and that each member of Council be responsible for the appointment of a member. Members of the planning commission shall serve two (2) year terms to coincide with the term of the elected official who appointed the member.**

**Cross references:** Function of planning commission under zoning ordinance generally, App. B, Art. 10, § 1 et seq.

**Charter references:** Power of council to create planning commission, Subpart A, § 23.

**State law references:** Planning commission, 22 Del. C. §§ 701–711.