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CHARTER REVIEW COMMITTEE REPORT

February 17, 1986

(As Accepted by City Council on February 24, 1986)

February 17, 1986

The Honorable Crawford J. Carroll
Mayor, City of Dover
City Hall
Dover, Delaware 19901

Dear Mayor Carroll:

In March of 1985, you, after discussion and deliberation with members of the City Council, appointed a Dover City Charter Review Committee. Upon your invitation those citizens who agreed to serve included Leon deValinger, Jr., Esther S. Frear, James B. Jackson, Charles A. Legates, Jr. and myself. Our efforts have been carried out with sincerity and devotion to our charge. Our work has consumed nearly one year and involved vast amounts of individual research and reflection, as well as many hours of meetings, private at the outset, but absolutely public since the first public meeting on September 3, 1985. Moreover, minutes of all private meetings have been available to the press and the general population since the first week of February, 1986. It is interesting to note, yet vexing, that since all minutes of the Committee have been on public display, only two persons have read them.

The perception of the Committee is that we were directed to submit recommendations of proposed changes in our city charter as to the form or type of government best suited to meet our city's future needs, including a recommended election process. It is our further understanding that we were not expected to decide matters of policy or legal issues, since such matters rest solely under the

duly elected representatives of all the people.

We register most respectfully our unanimous opinion that the nature of the problems and issues that we were called to address required that we be permitted to examine them in an atmosphere conducive to completely frank and candid discussion among ourselves. We always expected to be fully accountable for our final product, but we submit that, as a purely consultative body, we should not have been expected or required to conduct our analytical and investigative discussions in a public forum. We are not scofflaws and we accepted, obviously, the interpretation of the extended "Sunshine Law." Yet, our constant frustration has been that we were consultants treated as if we were elected officials creating policy and deciding legal issues.

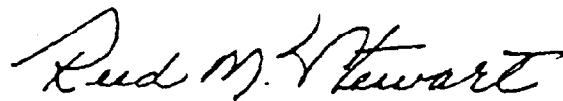
In light of the specific charge you and the City Council gave us, we saw ourselves as essentially five private citizens who were asked by the Mayor and Council to submit our collective personal recommendations regarding very specific and confined aspects of our city government. We have, therefore, been both puzzled and distressed that some of the local media have overreacted to distort and exaggerate the true nature and importance of our function. The bottom line, sir, is that our task has been an onerous one, but it was accepted by us in good faith. The committee was negatively impacted by the "Sunshine Law" being extended to the work of ad hoc committees. We had hoped to accomplish, finally, work that first started in 1972. Lamentably, that work is still not finished. I speak for the entire Committee in expressing the opinion that the revision of the city charter rests solely in the hands of the City Council. We respectfully request consideration of the appropriateness of future charter changes being decided by the

sitting council of a given time assisted, perhaps, by a private and paid consultant, but not by a committee of citizen volunteers.

Attached hereto are the recommendations--kept deliberately brief--of the Dover City Charter Review Committee. As we offer our recommendations for review and consideration by the people's elected leaders and representatives, we, simultaneously, seek release from service as a Committee and discharge of the Committee. We feel we have met our obligation to the extent of the capabilities of our collective wisdom and the constraints under which we worked. Each of us is sincerely proud to have had the honor and opportunity of attempting to serve you, the Council, the future of our city and the best interests of our fellow citizens.

Respectfully, for the

Dover City Charter Review Committee

A handwritten signature in cursive script that reads "Reed M. Stewart". The signature is written in dark ink and is positioned above the printed name of the signatory.

Reed M. Stewart, chairman

pc: Honorable Members of the City Council

REPORT OF THE DOVER CHARTER REVIEW COMMITTEE

February 17, 1986

FORM OF GOVERNMENT

In the work, HOW CITIES ARE ORGANIZED (National League of Cities, U.S. Conference of Mayors, James E. Larson, 1961.), it is noted that there is no categorical answer to the question of what may be the best form of government. This is also the conclusion of the Charter Review Committee. Government is actually a service organization. As James Larson noted, "They are concerned chiefly with providing the public with those services without which a large modern community could not exist. Whatever form (of government) is used, then, should be that which returns the most services for the citizen's tax dollar. In fact, most of the past changes in city government, producing new forms, have been the result of efforts to improve city administration, or, in a word, to make it more efficient." We obviously wish for the form of government in Dover, Delaware, to extend the citizens the best return on their money.

The Charter Review Committee studied several forms of government and then quickly discovered one cannot judge the effectiveness of a given form of government by examining an instance where that specific form is successfully practiced. Interestingly, there is always an exception--always an instance of failure to place beside an instance of success. Government seems to "work" where it is congruent with the environment it directs, the effort it facilitates--the "chemistry," if you will, of the peoples it purports to serve.

The Committee examined mayor and council government. Of that variety, there are two types, namely, weak mayor and strong mayor. As the National League of Cities discovered long before the Charter Review Committee decided to explore the

issue--the weak mayor government is labeled such because the mayor holds very limited executive power. In weak mayor forms, the people elect the mayor and the council, but the council often directs all city departments. The best that can be said of this form of government is that it is common. The worst that can be said is that it is inefficient, amateurish and that it scatters responsibility and establishes too many centers of authority.

Strong mayor government is characterized by that system where the people elect the council and the mayor, but the mayor, often as not, appoints heads and directs city departments. This form takes executive power away from the council and vests it in the mayor. Such a plan extends a city strong political and administrative leadership. The major risk of such a form is that not all strong mayors are strong and capable administrators. Such a government also provides fertile ground for mayor-council conflict.

We examined the commission form of government. Such a form provides for the citizens electing a commission. In turn, each commissioner is the head of a department. This tends to simplify government. All power is centralized under this form. But the major defect is that it tends to place both legislative and administrative powers in the same hands.

For obvious reasons, the council-manager form of government was carefully reviewed. This is a popular form of government today. In the sixties the National League of Cities (U.S. Conference of Mayors) noted, "...Council-manager form of government appears to provide the solution to the perplexing problem of bringing democracy and efficiency together. It recognizes that city administration is a problem to be dealt with by a professional administrator. It substitutes administration of a high order under the steady, even-flowing competency of the

experienced city manager for the erratic periods of good administration produced by commission or by mayor and council government. On the whole, the record of council-manager government has been outstanding."

Under the council-manager form of government, the voters usually elect a council which, in turn, appoints a manager who, in turn, appoints heads and directs city departments such as streets, health, fire, police, finance, utilities, parks and planning.

Is the council-manager form of government a panacea? No. It certainly remedies the weakness of the strong mayor plan because the manager does not have to divide his time and talent between administrative and political duties. Also, the ballot box is not necessarily the most appropriate way to select an outstanding administrator. The city manager is a credentialed and certified administrator. That's good, but hardly a panacea. The council-manager form of government seems not always to work in large cities. Strong political leadership seems necessary to control growingly complex population centers. Why? Here is the issue of "chemistry" and "environment" and perceptions and feelings. Voters seem to need a mayor to give information and guidance--an elected mayor--a champion of the people. This kind of leadership is usually absent in the council-manager form of government. Managers are often perceived to be "outsiders" and not committed to the real welfare of the city. Mayors tend to be regarded as "sons or daughters of the city"--deeply committed to city welfare and devotedly beholden to the "family" of voters. Factually, this is debatable. Nonetheless, it is a perception, and perceptions often carry greater power than truth. The city of Dover currently has a council-manager form of government. Thus, it behooves us to spend some time in discussion of this form of government. Facts about this form of government tend,

in and of themselves, to articulate the strength and popularity of the council-manager system.

The interested reader-citizen is reminded that the city council is usually the major legislative policy-making body of a municipality. The council is elected only by qualified electors residing within the corporate limits of the municipality. In parts of New England, this is the board of selectmen; for the commission form of government, previously discussed, it is the commission.

The mayor is the chief elected official executive of the municipality; in parts of neighboring New England, the chairman, board of selectment; for commission form of government, the chairman of the commission.

The chief administrative officer is appointed by the elected executive and/or the legislative body to serve as the manager or chief administrative officer of the municipality.

The mayor-council form of government has a legislative body that is elected either at large, by ward or district, or by some combination of the two. The distinguishing characteristics of the mayor-council form are: (1) a separately elected mayor, and (2) official designation of the office as at least the titular head of the city government. Depending on the legal framework and local customs, the powers of the mayor may range from limited ceremonial and representational duties to full-scale authority to appoint and to dismiss department heads, to appoint members of boards and commissions, to prepare the budget for city council review, to administer the budget and the daily operations of the city government, and to veto ordinances passed by the council.

The council-manager form of government has a legislative body elected by popular vote responsible for policy making; the municipality is under the

administration of a manager responsible to the council. The council appoints the chief administrator or manager. The mayor is a member of the council, usually has no veto power over council actions, and has no administrative duties. He is, however, recognized as the community's political leader.

(Source of above definitions: Charles Adrian, GOVERNING URBAN AMERICA, p.214)

With these definitions in mind, the Charter Review Committee would like to "fact out" and profile the council-manager plan and profession.

According to IMCA, the professional association of appointed administrators serving cities...and other local governments, in 1985 the following facts prevailed.

CURRENT:

...2,543 council-manager cities in the United States, 125 in Canada

...84 council-manager counties in the United States and 6 in Canada

...772 other cities, 155 counties and 144 COG's with overall professional management in the United States; 26 general-management in Canada

...77 percent of the cities recognized by IMCA in the United States have the plan

...single most popular form of government in cities with a population over 10,000

...Dade County, Florida, (population 1,625,979) is the largest council-manager jurisdiction

...large council-manager cities include Dallas, San Diego and Phoenix

...the form of local government for over 100 million Americans

GROWTH:

...adopted on the average more than once every week by a city or county since 1945--80 adoptions annually

...growing faster than any other form of local government

ORIGIN:

...first adopted 1908, Staunton, Virginia

...ICMA, the professional association of appointed chief management executives in cities, counties, and councils of governments

...Dayton, Ohio, first major city in the United States, adopted the plan in 1914

Now turning to the profile of the profession of city manager itself, note the following interesting facts--including some compelling facts about elected officials.

MANAGERS:

...87 percent are college graduates

...58 percent have a graduate degree

...13 percent have Masters degrees in political science or government; 82 percent in public or business administration

...average salary is \$42,925

...average tenure of office is 5.4 years per local government

ASSISTANT MANAGERS:

...77 percent are college graduates

...46 percent have a graduate degree

...68 percent are trained in a field related to public administration

...average annual salary is \$34,522*

*as reported in an ICMA "baseline data report."

ELECTED OFFICIALS:

...the mayor in 57 percent of council-manager cities is directly elected by the people

...councils tend to be small in size and receive nominal salaries

...the majority of councilmembers are part-time

...83 percent of the councilmembers are elected in nonpartisan elections

...76 percent of the councilmembers in council-manager cities are elected in at-large elections; in mayor-council cities, the figure is 57 percent

...24 percent of the council-manager cities conduct council elections entirely, or in part, by ward or district; in mayor-council cities, the figure is 43 percent

But what of the strong mayor form of government? Do the above facts render it obsolete? We think not. In January of 1986, a survey of all capitol cities in the United States was undertaken. Although responses were not secured from all the cities solicited, following is a nonetheless revealing executive summary of the capitol city survey attempted.

There were fifty survey forms mailed. Thirty-three responses were gained. This, of course, indicates a 66 percent rate of response, probably an acceptable number from which to draw sound tentative conclusions.

CITIES RECEIVING PAYMENT FROM STATE: 21 responses----64%

CITIES NOT RECEIVING PAYMENT FROM THE STATE: 12 responses----36%

FORMULA USED FOR PAYMENT: 12 responses

LUMP SUM USED FOR PAYMENT: 9 responses

PERCENTAGE OF GENERAL FUNDS RECEIVED FROM STATE:

less than 1%	11
1.00 to 4.99%	5
5.00 to 9.99%	3
10% and above	2

FORM OF GOVERNMENT:

strong mayor	12 responses--37%
mayor/council	6 responses--18%
city manager	7 responses--21%
other	8 responses--24%

In bold relief, this seems to be the issue. Relative to the best form of local government, some believe that the council-manager form of government is one that people can understand and that officials can administer. These two qualities are said to make it the preferred choice of political scientists and many cities as well. But where does this leave the mayor and proponents of the strong mayor form of government? Well, almost all council-manager communities also have a mayor who is leader in developing community policies. With the council the mayor is responsible for soliciting citizen views in forming these policies and interpreting them to the public. The mayor also represents the city in official functions, appoints advisory committees, coordinates their work, and maintains liaison with other governmental agencies and civil groups. Is this enough? The Dover City Charter Review Committee does not think so. After consideration of all forms, the "chemistry" of the area and our perceptions of the desires of the general populace, coupled with a search for a "hybrid" form of government which refused discovery, we recommend the following relative to form of government best suited to meet the future needs of the city of Dover, Delaware:

1. Following the evolution and development of the system of government in our country, we should continue, in the municipal government of Dover, to maintain the separate duties and functions of the executive branch (mayor and administrative offices) and the legislative branch comprising the city council. These branches

with their duties and responsibilities are well spelled out in the present city charter.

2. Dover has functioned well under its present charter with some changes and amendments as needed. We recommend that the present charter be retained and that certain corrections be made as this report will suggest.

3. At present, the city manager, the city clerk, the city treasurer, the city assessor, the city building inspector and the fire marshal are reporting to the city council. To be compatible with the best form of government, as we perceive it, these administrative offices, with the exception of the city assessor, should report directly to the mayor rather than to the city council. Thus, executive branch responsibilities would be coming to the attention of the mayor who is the chief executive. In turn, the mayor would be in a position to communicate directly to the council regarding any of these important administrative functions.

4. To maintain a uniformity in that branch of government, we recommend further that the city manager, the city clerk, the city solicitor, the chief of police, the fire marshal, the building inspector and the city treasurer should all be appointed by the mayor of Dover, reporting directly to the mayor, but approved and confirmed by the city council.

5. The above recommendations notwithstanding, the Dover City Charter Review Committee is not yet ready to recommend a pure strong mayor form of government. Thus, for a period of at least five years from the present we recommend a continuance of our present charter requirement for a city manager to administer the day-to-day affairs of the city. But we stress again that current council appointments should, in the future, be the mayor's choice with approval and confirmation of the council.

6. Presently, there is no method to break a tie vote. Should we continue to have an even number of councilpersons, it is recommended that the mayor be empowered to break a tie vote. Most feel that a tie vote should never be construed as a no vote. However, Mr. James B. Jackson dissents from the majority, noting that this matter would be appropriately resolved through the selection of an uneven number of councilpersons. Empowering the mayor to break a tie vote, Mr. Jackson stresses, places the mayor in a legislative posture; the legislative function is the exclusive province of the council.

Though we perhaps depart from our specific charge, we feel compelled to indicate that the city committee structure is not a charter covenant. This structure should be discarded in favor of a Committee of the Whole approach that would relieve the city council members from attending numerous meetings and allow the mayor to be knowledgeable of referral items discussed by staff and council prior to the regular meetings of the city council. The present committee structure fragments important staff presentations to individual committees and council members feel obligated to attend all meetings rather than wait for the formal presentation of the committee deliberations at a regular council meeting.

← Following are suggested changes to be made in the current Charter. The changes are compelled because of incorrect or obsolete wording:

p. 20, section 3

The city does not have home rule. Should that be considered for the future?

p. 21, section 4

Powers of government are vested in a mayor and city council. There is no mention of a city manager.

p. 22, section 5

States the voting age as 21 years. Should be 18 years of age.

p. 22, section 6

Pertains to elections, a subject not to be considered while the NAACP still has a case against the city in the courts.

p.28, section 14

States mayor shall have no vote except in case of a tie.

p. 28, section 18

Include cable TV equipment

p. 30, section 24

Mentions "operating a steam railroad" in the city.

p. 30, 31, section 26

Does not mention the kent county sewer system.

p. 37, section 29, 30

States that council has supervision of the streets, etc., and gargage disposal.

p. 40, section 42

A recent ordinance placed city treasurer under jurisdiction of the council.

p. 42, section 47

Calls for a general assessment in 1950 and every year thereafter. This section needs to be revised.

p. 43, section 48

Refers to a limit of \$150,000.00 annual sum to be raised for general purposes. This is obsolete.

p. 50, section 52

The alderman section should be retained as the city may desire to re-activate

this office. In 5th paragraph change name-jail of Kent County.

p. 52. section 53

Change the name of county jail of Kent County.

RECOMMENDATIONS ON THE ELECTION PROCESS

The Dover City Charter Review Committee has given some study to, but feels it must not render an opinion or recommendation about, at large vs. district voting. It is lamentable that we cannot comment on this important issue, but it is a matter now in litigation before the Court. For the Committee to comment would tend to usurp the function of the Court and possibly result in the enjoining of the Committee members as a party to the suit. It could also be perceived as an attempt to prejudice the Court or influence a Court decision. None of us on the Committee has any intention of interfering with Court action or any parties involved in such action. Therefore, though frustrated by our clear inability to express opinion relative to district or at-large voting, we do feel that the issues of election dates, redistricting, terms of office and dual registration are critically important, and we offer the following recommendations:

1. We recommend an apportionment plan which reduces current election districts to three proportionate areas by population. Three councilpersons would emerge from each district, for a total of nine. The "odd person" would be elected as president of the city council by members of the council to eliminate the possibility of a tie vote.

Relative to our primary recommendation on election process, however, we of the Committee find every reason to commend the apportionment plan advanced by former

Dover Mayor Charles A. Legates, Jr.

Dover is currently divided into four election districts with eight council members. We recommend nine council members from three election districts of equal population. We recommend three council members from each of the three districts. District lines (please refer to the drawing at the conclusion of this report) are drawn horizontally because the new districts would not have to be reapportioned as often as districts formed by vertical lines. As West Dover continues its growth, the three election districts would grow proportionately because each, as proposed, would include a part of growing West Dover. This recommendation is based (particularly the proposed district lines) on information provided by the city assessor's office. We stress, as does the assessor, that the population figures represent only the most accurate data available from the tax assessor's office. These figures are considered by the Committee to be good enough for census tract base line calculations. The map at the end of this report shows dividing lines drawn to best follow natural boundaries or streets. Mr. Legates does not regard the lines to be absolute therefore. As an aid and discussion guide to facilitate Mayor and Council consideration of this recommendation, we do advance the following figures:

Note: figures not based on a detailed canvas of all city residential units, rather they are derived from the initial November 25, 1984, count.

AREA ONE: From the northern extremity of Dover's city limits to Walker Road, to Silver Lake, Silver Lake south to a point past Oak Lane, a line from Silver Lake to Route 13, Route 13 south to Whiteoak Road, Whiteoak Road east to the city limits.

RESIDENCES	1,566
APARTMENT UNITS	751
DELAWARE STATE COLLEGE STUDENT CAPACITY	1,009
TOTAL	3,326

AREA TWO: Between the Walker Road/Silver Lake/Whiteoak Road boundary and Forest Street (Rt. #8), to Division Street (Rt. #8) and Kings Highway east to Rt. #13, east on N. Little Creek Road (Rt. #8) to intersection of N. Little Creek Road and Willis Road, north on Willis Road to Whiteoak Road.

RESIDENCES	1,841
APARTMENT UNITS	1,080
WESLEY COLLEGE STUDENT CAPACITY	650
TOTAL	3,571

AREA THREE: From the Forest Street/Division Street/N. Little Creek Road/Willis Road boundary to the eastern and southern extremity of Dover's City limits.

RESIDENCES	2,302
APARTMENT UNITS	666
MOBILE HOME PARK SITES	359
TOTAL	3,327
DOVER AIR FORCE BASE DORM CAPACITY	1,958

(Normal occupancy 80-85%)

2. Elections dates should be changed so that newly elected city personnel may have the opportunity to set the tax rate and help formulate the budget for the next

fiscal year. With elections in April and the newly elected not sworn in until May, those elected must live with a tax rate already passed and a budget to be acted on within forty days. This is inappropriate. We urge off-year elections in November which would allow elected officials to be seated at the first meeting in January following the election.

3. Though there is not unanimity among the members of the Charter Review Committee, James B. Jackson and Reed M. Stewart wish to recommend a single registration as opposed to the current dual registration system. Dual registration is anachronistic. It is a source of confusion to the Dover newcomer, a frustration to the established resident, and a potential inconvenience to everyone. The elimination of a separate city registration should improve voter participation. The cost associated with changing voter registration is a consideration. Jackson and Stewart recognize that it may cost \$40,000-\$60,000 to transfer the registration list to the State computer, but that is only .01% of the operations budget. Too few people are currently participating in city elections and these Committee members perceive dual registration to be a part of the problem.

4. Though there is not unanimity among members of the Charter Review Committee on this point either, Reed M. Stewart wishes to recommend that mayor and councilpersons be remunerated more than the equivalent of five dollars a week "reimbursement" of expenses. Such a practice does not necessarily attract volunteer servants of self-giving generosity as much as it may very well preclude outstanding citizens of modest income from participating in public service. It is time for Dover to extend a respectable compensation to its elected leaders.

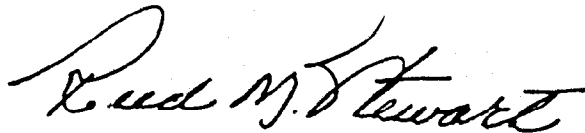
5. It is recommended that mayor and councilpersons be elected to four-year terms.

6. All appointments to committees and commissions of the City, except those

committees within the city council, should be made by the mayor and confirmed by the council.

This concludes the report and the recommendations of the Dover City Charter Review Committee of 1985-1986. Each member of the Committee has learned much, contributed much, and been deeply honored to have served an outstanding Mayor and Council and a superb City constituted of splendid citizens committed, one and all, to the invention of an ever better future for Dover.

Respectfully submitted.



Reed M. Stewart

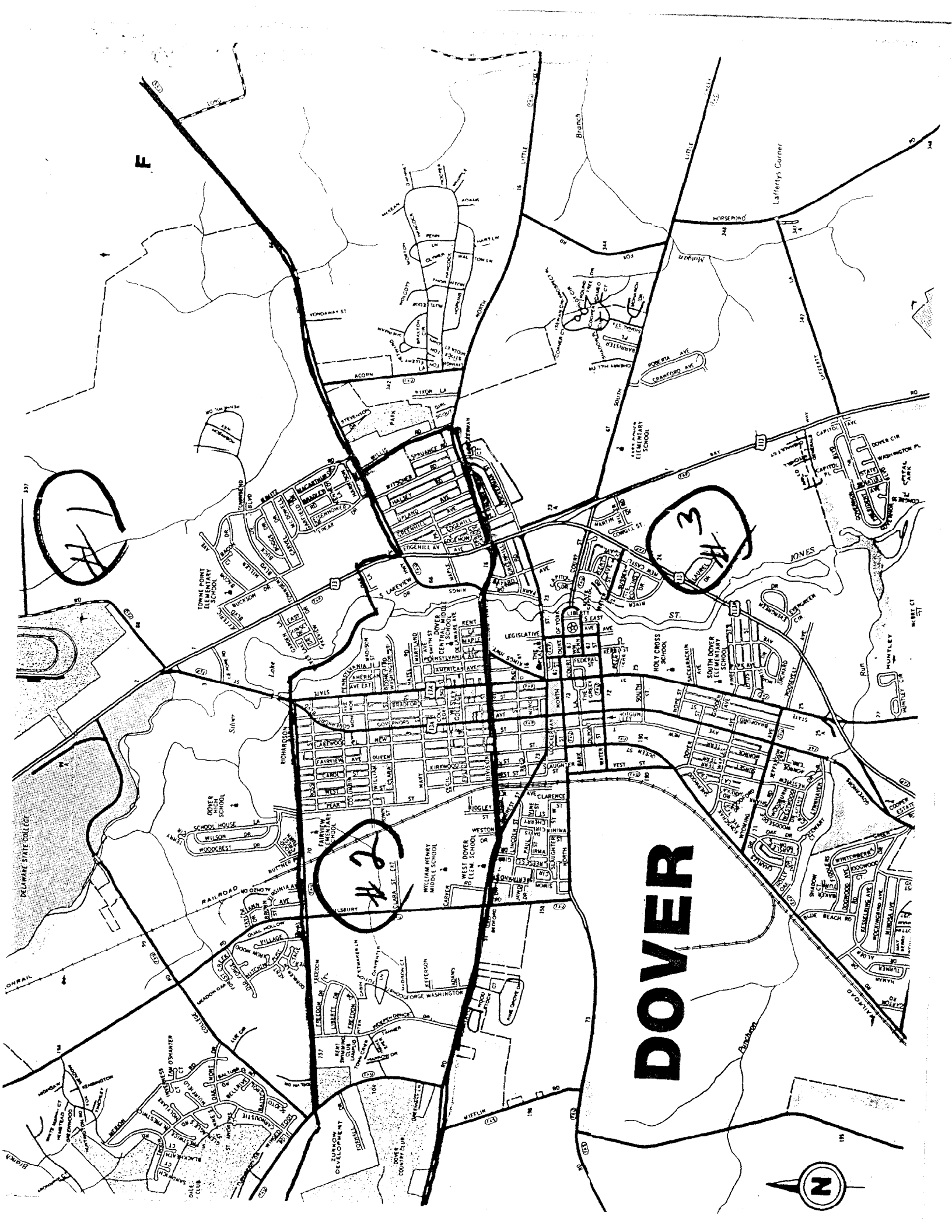
For The Charter Review Committee Membership

Members: Leon deValinger, Jr.

Esther S. Frear

James B. Jackson

Charles A. Legates, Jr.



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