



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Workshop Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, June 21, 2006**
Meeting Time: **7:00pm**

1. PLEDGE OF ALLEGIANCE

THE MAYOR ASKED CHENEY TO LEAD THE PLEDGE.

2. DISCUSSION RE:

A. #07-05/24/06, CHAPTER 22, ETHICS, VARIOUS SECTIONS AND ADDITION SECTION 22-13, ETHICS COMMISSION. SPONSORED BY DEPUTY MAYOR JASON HINDLE.

THOSE PRESENT: COUNCILOR DEDE, DEPUTY MAYOR HINDLE, MAYOR MYERS, COUNCILORS SCOTT, TREFETHEN, TURNER AND CHENEY AND CIOTTI. ALSO PRESENT CITY MANAGER JOYAL AND CITY ATTORNEY ALLAN KRANS. COUNCILOR KEAYS WAS ABSENT.

THE MAYOR SAYS WE ARE IN WORKSHOP SESSION TO DISCUSS ETHICS THAT WE WERE CHARGED WITH AS A RESULT OF THE CHARTER COMMISSION REPORT FROM LAST YEAR.

IT HAS ALREADY HAD A FIRST READING KEAYS IS ABSENT.

HE CALLED ON KRANS TO PRESENT FROM THE NEWLY CHANGED VERSION WITH YELLOW HIGHLIGHTS.

KRANS STATED IT INCLUDES ARTICLE 1 WITH THE ETHICAL STANDARDS THAT ARE CONTAINED IN OUR CODE.

80% OF THE VOTERS WHO VOTED ON THE CHARTER COMMISSION VOTED TO ESTABLISH A CHARTER COMMISSION.

KRANS SAYS THIS IS A DRAFT AND AS A SUGGESTION HE WANTS TO MAKE THIS CLEAR THAT THEY CAN ENDORSE IT IN TOTAL OR RIP IT APART COMPLETELY. HE DRAFTED IT WITH THE ASSISTANCE OF THE DEPUTY MAYOR.

THE MAYOR'S HOPE IS TO GO THROUGH THIS IN ORDER TO SEE IF THERE IS A CONSENSUS FOR IT. HE STATED WE WILL GO THROUGH IT THEN SUBSTITUTE THE NEW PROPOSED DOCUMENT. HE WANTS THIS TO BE INFORMAL AND WILL TAKE ANY QUESTIONS.

HINDLE STARTED OFF WITH SOME HISTORY SAYING THIS ALL BEGAN AT 9 OR 10 O'CLOCK ON THE NIGHT OF THE ELECTION AND HE CONTACTED THE CITY ATTORNEY TO BEGIN FORMING THE COMMISSION. THEY DID SOME RESEARCH TO FIND HOW ETHICS COMMISSIONS ARE ELECTED THROUGH OUT THE COUNTRY. BEGINNING IN ARTICLE 4 THEY BANTERED ABOUT THE ISSUE IF IT SHOULD BE AN ELECTED BOARD. THE APPOINTMENTS COMMITTEE WILL MAKE THE APPOINTMENTS; HE REVIEWED THE ARTICLE 4 SECTION.

SECOND THE OTHER MAJOR CHANGE IS THE COMPLAINTS WILL BE MADE PUBLIC, IN THE PAST THIS WAS NOT THE CASE. THIS WILL GIVE THE PROCESS OPENNESS. THE COMPLAINT WILL BE AGAINST AN INDIVIDUAL SO HOPEFULLY A PERSON WILL HAVE STRONG ENOUGH EVIDENCE ON THE PERSON.



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HE THINKS THIS WILL COME BACK TO US AFTER A WHILE TO BE REVISED FROM TIME TO TIME. AND IN TURN CHAPTER 22 WILL BECOME A STRONGER BETTER DOCUMENT FOR THIS.

THE MAYOR SAYS WE WILL START ON PAGE ONE AND RUN THROUGH IT. HINDLE SAYS THERE WERE A COUPLE OF ISSUES, ONE BEING THE SCHOOL BOARD AND THAT THIS DOES GIVE SUBPOENA POWER.

KRANS COMMENTED ON THE STRIKE OUTS SAYING THE YELLOW BOLDING IS THE NEW AMENDED VERSION.

PAGE ONE, THERE WAS NO COMMENT AND NO CHANGE

ON PAGE 22-5 TURNER ASKED WHAT DOES IT MEAN BY RECUSAL FROM THE ROOM; IS IT THAT ONE MUST ABSTAIN. TURNER WOULD RATHER USE THE WORD "REFRAIN" INSTEAD OF REMOVE TO MAKE THIS CLEARER, DISCUSSION ENSUED ABOUT THE VERBIAGE. KRANS WILL CHECK OUT WHAT WORD CAN BE USED HERE. CHENEY THINKS ABSTAIN IS OK FOR ABSTAINING FROM THE DISCUSSION AND TO NOT BE REMOVED FROM THE ROOM. TURNER WANTS DEFINITION IN THIS AREA, DO WE WANT THE PERSON IN THE CHAMBERS IN THEIR SEAT OR ASK THEM TO MOVE TO ANOTHER AREA. DEDE GAVE AN EXAMPLE OF WHEN A MEMBER WOULD WANT TO LEAVE THE ROOM AND THAT THE MAYOR SHOULD MAKE THE CALL. TREFETHEN SUGGESTS WE LEAVE THIS TO THE DISCRETION OF THE MAYOR AS HE CAN SEE BOTH SIDES AND PERHAPS WE SHOULD LEAVE THIS AT THE DISCRETION OF THE MAYOR. THERE WILL BE SOME EMOTIONAL ISSUES. DEDE POINTED OUT THERE IS A DIFFERENCE BETWEEN AN ABSTENTION AND RECUSAL.

HINDLE WILL BE HAPPY TO WORK WITH THE ATTORNEY TO FIND PROPER LANGUAGE.

CIOTTI STATED IN ALL HIS YEARS ON PLANNING BOARD AND TREFETHEN ALONG WITH SKIP (PARKS CHRISTENBURY) IF THERE WAS A RECUSAL YOU GOT UP AND LEFT YOUR SEAT; THERE WAS NO WRITTEN RULE JUST DONE FROM COURTESY. MAYBE THIS JUST NEEDS TO BE DEFINED.

ON 22-11 TREFETHEN THINKS WE NEED TO DEFINE ELECTED OFFICIAL AS THERE WAS A CONFLICT LAST FALL WITH DIFFERENT OPINIONS. HE THINKS THIS IS INTENDED TO INCLUDE WARD WORKERS; HE WOULD LIKE THAT DEFINED MORE CLEARLY.

DEDE THINKS THIS RULE SHOULD ONLY BE FOR CITY COUNCILORS.

ALLAN SAYS THERE ARE 2 SENTENCES HERE IN 2-10, IN THE FIRST 5 WORDS OF THE SECOND SENTENCE. TREFETHEN THINKS WE SHOULD CREATE A 22-10A AND SEPARATE THE TWO ISSUES. THIS IDEA WAS AGREED UPON.

DEDE THINKS WE SHOULD GIVE CONSIDERATION TO SOME PERSONS SUCH AS WARD WORKERS.

KRANS WAS DIRECTED TO COME IN FOR AN ALTERNATIVE VERBIAGE TO THE "FAMILY:" DEFINITION 22 THROUGHOUT THE PAGE. KRANS SAYS THE ISSUE OF FINE COMES UP IN STATE LAW AND IS DEFINED THERE.

TURNER ASKED TO HAVE THE PART OF 22-12 THAT PERTAINS TO EMPLOYEES MADE CLEARER AND 22-13 PERTAINS TO COUNCILORS.



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HINDLE EXPLAINED HOW A SCHOOL BOARD MEMBER WILL BE AFFECTED BY THIS AS THIS COMES OUT OF THE CHARTER. THE SCHOOL BOARD HAS DECLINED TO BE INVOLVED WITH THE ETHICS COMMISSION, THEY ARE ASSERTING THEIR INDEPENDENCE AND THE AG SUPPORTS THAT POSITION. HE HAS ADDRESSED THIS WITH BUD FITCH AND THERE HAVE BEEN TWO SUPPORTING OPINIONS TO SUPPORT THIS.

CIOTTI THINKS THE CHARTER NEEDS TO BE CHANGED; TWO WRONGS DON'T MAKE A RIGHT. HE DOES NOT THINK WE SHOULD APPOINT A PERSON FROM THE SCHOOL BOARD TO BE ON THE COMMISSION. TREFETHEN STATED WHEN YOU LOOK AT FORMER CITY COUNCILORS MANY OF THEM ARE SERVING ON OTHER BOARDS. IF THEY ARE ON ONE OF THESE THEY CANNOT BE SERVING ON THE ETHICS COMMISSIONS. TREFETHEN THINKS WE MAY BE ELIMINATING A GROUP OF FOLKS THAT WE MAY NEED TO GET A FULL COMMISSION. AS THE ETHICS BOARD MAY NEVER MEET.

CHENEY AGREES WITH CIOTTI AS SHE DOES NOT KNOW WHY THEY WOULD NOT WANT TO BE INVOLVED WITH THE ETHICS COMMISSION BUT SHE ALSO AGREES WITH KRANS IN NOT CHANGING THE CHARTER LANGUAGE. REMOVING THE VERBIAGE DOES NOT MATTER BUT SHE DOES WISH THEY WOULD PARTICIPATE.

HINDLE WANTS TO POINT OUT THAT THE COUNCIL AND SCHOOL BOARD ARE COMPLETELY DIFFERENT. HE IS ALSO SURE THEY WILL BE FORMING THEIR OWN ETHICS COMMITTEE AND THIS IS TWO VERY SEPARATE ENTITIES.

TREFETHEN WANTS TO KNOW IF SOMEONE IS MAKING A LIST OF ANY HOUSEKEEPING CHANGES WE FIND THAT MAY NEED TO BE DONE TO THE CHARTER. THE MAYOR SAYS THE CITY ATTORNEY IS KEEPING TRACK.

ON 22-13 ITEM B WOULD LIKE TO CLARIFY THAT AT LEAST ONE COMMISSIONER SHALL BE AN ATTORNEY. DISCUSSION ENSUED REGARDING THE NUMBER OF ATTORNEYS ON THE COMMISSION AND THE WORD SHALL.

C 22-14-C - DeDe STATED UNDER COMPLAINTS, HE IS CONCERNED ABOUT EXPOSING THE INITIAL COMPLAINT.

HINDLE STATED THEY HAD DEBATED THIS. HE ALSO WILL BE FINALIZING THE ACTUAL COMPLAINT FORM.

TURNER WOULD NOT WANT TO FIND OUT TWO OR THREE MONTHS FROM NOW THAT SOMEONE HAS FILED A COMPLAINT AGAINST HIM. CIOTTI WANTED TO KNOW IF THE ETHICS COMMITTEE WOULD BE REQUIRED TO GIVE THE COUNCIL REGULAR REPORTS. DISCUSSION ENSUED. THE MAYOR CONCLUDED THAT WE HAVE NO CONTROL IF SOMEONE WANTS TO TAKE AN ISSUE TO THE PRESS. HE DOES NOT AGREE THAT IT BECOMES PUBLIC UNTIL THE ETHICS COMMITTEE REVIEWS THE ACCUSATION. DeDe SAYS WHEN IT HITS THE HEADLINE AND THE ETHICS COMMITTEE DETERMINES IT IS NOT WARRANTED IT WILL THEN NOT BE HEADLINES BUT THE ALLEGATION WILL BE WHAT STICKS IN PEOPLE'S HEADS. HINDLE SAYS SOME OF THESE ALLEGATIONS WILL BE DETERMINED TO BE CRIMINAL. IF THERE IS AN ISSUE WITH A CITY EMPLOYEE THAT IS NOT QUESTION; IT GOES TO THE CITY MANAGER AND WILL NEVER SEE THE LIGHT OF DAY.

SCOTT ASKED HOW WE PREVENT THE COUNCILOR OR MAYOR FROM FILING A FRIVOLOUS COMPLAINT. THERE SHOULD BE SOME KIND OF A SANCTION AGAINST A FRIVOLOUS COMPLAINT. KRANS SAYS THERE IS NO QUESTION FROM THE WAY THIS IS DRAFTED THAT IT IS COMPLETELY OPEN EXCEPT FOR POLICE MATTERS. IF WHEN THE ETHICS COMMITTEE OPENS THE ENVELOPE AND FINDS IT RISES TO



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THE LEVEL OF A CRIMINAL CASE IT AUTOMATICALLY GOES TO THE POLICE DEPARTMENT AND BECOMES A POLICE MATTER. DEDE WANTS KRANS TO INVESTIGATE THE VERBIAGE IF A PERSON COMPLAINS THAT THE COMPLAINT IS FOUND TO BE FRIVOLOUS SO EVEN IF TRUE IT WILL NOT VIOLATE THE ETHICAL PROVISION OF THE ORDINANCE. CITY ATTORNEY KRANS SAYS THIS FALLS IN 22-15 -3. THIS MAY NOT BE AN ETHICAL VIOLATION AND WILL BE DISMISSED BECAUSE OF THIS. DEDE AGREES IT WOULD BE MADE PUBLIC FAIRLY IMMEDIATELY.

SCOTT THINKS THERE SHOULD BE A MONETARY VIOLATION IF A FRIVOLOUS COMPLAINT WAS MADE. KRANS SAYS FRIVOLOUS IS OVER USED IN THE COURSE OF LAWSUITS. HE WILL LOOK INTO THE DEFINITION OF PENALTY AND IF IT IS ALLOWED.

CHENEY COMMENTED ON THE FINANCIAL REPERCUSSION OF A CITIZEN BRINGING FORWARD AN ISSUE. CIOTTI WOULD LIKE A DISCLAIMER FORM TO GO WITH THE APPLICATION BEFORE THEY FILL OUT THE COMPLAINT. KRANS EXPLAINED IF A SITUATION IS GOING TO BE FILED A PERSON THEY WILL NEED TO SPEAK WITH THE CITY MANAGER OR A CITY COUNCILOR AT LEAST 14 DAYS AHEAD OF TIME. SO YOU CAN'T COME OUT OF THE BLUE AND MAKE AN ACCUSATION. THE MAYOR WANTS TO GET SOME AGREEMENT THAT THIS IS GOING TO BE PUBLIC RIGHT OUT OF THE GATE. CHENEY QUESTIONED THE 14 DAY PROCEDURE WITH THE CITY MANAGER AND CITY COUNCIL. SCOTT IS IN FAVOR OF A FINANCIAL PENALTY. WE WILL RESEARCH ANY FINANCIAL PENALTY LANGUAGE. AND WE WOULD LIKE TO SEE THE COMPLAINT SHEET IN DRAFT FORM.

CHENEY WANTS TO GO BACK TO 22-13 ABOUT ONE COMMISSIONER BEING AN ATTORNEY; WOULD ANYONE WANT A CAP ON HOW MANY ATTORNEYS. TURNER DOES NOT UNDERSTAND WHY ONE OF THE MEMBERS NEEDS TO BE AN ATTORNEY. SCOTT AGREES WITH TURNER EVEN THOUGH SOME OF HIS FRIENDS ARE ATTORNEYS. CIOTTI SAYS IT IS NICE TO HAVE SOMEONE WITH A LEGAL BACKGROUND.

ON 22-15 COMPLAINTS; THE MAYOR HAS A QUESTION ON THE LOOK BACK PERIOD. IF WE ADOPT THIS ON AUGUST 1ST COULD SOMEONE MAKE A COMPLAINT FROM A PROBLEM BACK IN JUNE. HE ASKED DOES THE 180 DAYS START BEFORE THE COMMISSION WAS FORMED OR TODAY. KRANS STATED WE ARE ACTUALLY DRAFTING ETHICAL STANDARDS AND THIS COMPLAINT WOULD GO BACK UNDER THE OLD ETHICAL STANDARD CASES. SCOTT SAYS THERE MUST BE SOMETHING ILLEGAL ABOUT GOING BACK WARD. THE MAYOR SAYS WE HAVE STANDARDS IN EFFECT TODAY. KRANS SAYS THIS HAPPENED IN BARRINGTON LAST WEEK. WE HAVE A SET OF STANDARDS AVAILABLE TODAY. THIS WILL BE AN ADVISORY ETHICS COMMISSION.

TREFETHEN ASKED ABOUT SECTION A AND IF THE CITY CLERKS OFFICE STAFF ARE NOTARY PUBLICS. IT SHOULD BE ADDED THE CLERKS OFFICE WILL DO THIS SERVICE FOR FREE.

CHENEY SAYS DID WE DECIDE HOW FAR BACK WE COULD GO. DISCUSSION ENSUED ABOUT WHEN THE 180 DAYS WOULD START. TREFETHEN SAYS ON SECTION I A TAPE RECORDING SHALL BE MADE OF THE PROCEEDINGS. TREFETHEN HAS ISSUES WITH WHERE AND HOW LONG WE WILL KEEP THE RECORDING.

SECTION N - TREFETHEN ASKED HOW LONG BEFORE AN ELECTION WOULD WE ACCEPT A COMPLAINT. HINDLE WILL HAVE KRANS LOOK INTO THIS ITEM. ALLAN WANTS TO FREEZE THEIR RIGHT FOR 280 DAYS.



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ON 22-16 CHENEY ASKED ABOUT WHAT IS THE COUNCIL'S OPTION, IS IT BY RESOLUTION. KRANS WILL REVIEW TO SEE IF THEY NEED A SIMPLE MAJORITY OR A 2/3 S VOTE. THE MAYOR ALSO WANTS TO KNOW ONCE SOMETHING GOES TO THE ETHICS COMMISSION OBVIOUSLY THE COUNCIL IS NOT REQUIRED TO ACCEPT THE OUTCOME. AT THAT POINT WOULD THERE BE A RESOLUTION ONCE IT IS FILED

KRANS SAYS YOU WILL BE CONFINED TO THE RESOLUTION ON THE FLOOR AND THEY WOULD HAVE THE OPTION OF TAKING MORE TESTIMONY SO THE ANSWER IS A LITTLE BIT OF BOTH BUT THE COUNCIL SHOULD PAY ATTENTION TO THE DECISION OF THE ETHICS COMMISSION. IN THE RARE SITUATION WHERE THE COUNCIL DOES NOT AGREE WITH THE ETHICS COMMISSION, THEY COULD TAKE FURTHER ACTION. DEDE THINKS THE RESOLUTION'S OPTIONS SHOULD BE ATTACHED.

THE MAYOR ASKED IF THERE WERE ANY MORE ISSUES. KRANS READ ITEM M AND THE FAIRNESS OF THIS. THEY DECIDED TO TAKE THIS OUT.

HINDLE THANKED ATTORNEY KRANS FOR WORKING WITH HIM ON THIS AS WELL AS FORMER COUNCILOR PARKS CHRISTENBURY. THE MAYOR ADDED THE PUBLIC HEARING WILL BE NEXT WEEK FOR THEIR COMMENT. CIOTTI WOULD LIKE SIGN UPS FOR THE ETHICS COMMISSION. THOSE WE ALREADY HAVE ON FILE WE WILL CONSIDER AND FOR THOSE INTERESTED PLEASE STOP IN THE CLERK'S OFFICE TO COMPLETE AN APPLICATION.

3. ADJOURN

HINDLE MOVED SECONDED BY ALL WITH ALL IN FAVOR.