



CITY OF DOVER

CITY COUNCIL – MINUTES

Meeting Type: Workshop Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, February 7, 2007**
Meeting Time: **7:00 pm WORKSHOP**

Councilors Present: Mayor Scott Myers, Deputy Mayor Jason Hindle, Councilor Bob Keays, Councilor David Scott, Councilor Dean Trefethen, Councilor Catherine Cheney, Councilor Harvey Turner and Councilor Dennis Ciotti.
Councilor Absent: Doug DeDe

Also Present: City Manager Mike Joyal and City Attorney Allan Krans

1. PLEDGE OF ALLEGIANCE

Councilor Turner led the Pledge of Allegiance.

2. DISCUSSION W/ LEGISLATIVE DELEGATION

Mayor Myers stated that several weeks ago he sent letters to our State representatives and State senator as well as to Senators Gregg and Sununu and Congresswoman Shea-Porter to come and update the Council on various issues. He stated he feels it is important to keep the lines of communication open between all of them and welcomed those that were in attendance.

The Mayor then introduced Senator Iris Estabrook.

Senator Estabrook reviewed the various committee appointments she currently serves, some of them as the Chair and various bills she sponsored regarding issues that are important to her including improving education, quality healthcare, public safety and health and quality of life. (See handout in 02/07/07 folder)

Hindle asked for an up date on the status of the right-to-know legislation. Estabrook stated this is still in the house so she is not yet familiar with that until it comes over to the Senate side. She stated that she is following the retirement system issue which she knows the Council recently passed a resolution regarding.

Mayor Myers thanked her for her interest in the retirement bill. He stated that he attended a Mayor's roundtable this morning at which they discussed school funding. He stated that sustainability and long term budgeting are key issues and understands that the formulas that are used can either help or hurt communities depending on where they come out each time. He stated they are also concerned with the binding arbitration legislation stating it will put the city in a position of weakness if passed. Estabrook stated she understands the need for school boards/city councils to be able to project school funding and she is advocating that they be told ASAP, but if the current law goes ahead it would cost the State an additional \$52,000,000, She stated that she



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expects that the numbers will be released soon because the Governor's budget presentation is February 15th.

Trefethen stated the comment that was just made regarding the current law going to cost the State more money needs to be understood that even though it may cost the State extra money, if it doesn't get paid by the State then it ends up being paid at the County and city levels.

Senator Estabrook stated that is correct.

The Mayor thanked her for coming this evening.

Next, the Mayor asked the State representatives to speak, first stating that Earl Goodwin is here this evening and will be reporting on House Bill 230 which was voted down today regarding the Verizon pole tax issue.

Peter Schmidt, District 4 representing Wards 1 and 2, began by stating that he agrees with Councilor Trefethens comments that money not paid at the State level does get downshifted to the county and to the taxpayers. He stated that one of his issues is that there is a lot of federal money left on the table that the State of New Hampshire doesn't take advantage of and is wasted. Next he stated that he is sponsoring legislation regarding nursing home costs which County Commissioner George Maglaras has helped him with which would bring savings to both the State and County and will be heard next week. He then stated that he wanted to point out that Senator Iris Estabrook is one of, if not the, hardest working Senators and feels it is a 24/7 job. Next, he discussed the retirement fund issue which is a great concern to everyone and has received a lot of press that there is a crisis, but wants people to know that there is no crisis, but it is laying a heavier burden on the employers. He then reviewed the history of the retirement system and the reason that it is the way it is at this time, and possible solutions to the existing problems. He concluded by listing the various committees he is working on which keeps him in Concord most of the time.

Tom Fargo, District 4, representing Wards 1 and 2, stated he is a freshman and is having fun learning the system and meeting the people. He then reviewed the bills that he is co-sponsoring including developing a study Commission for tidal energy at the Little Bay Bridges and a Conservation Agent Program. He explained that he has been the Chair of the Conservation Commission in Dover for 8 years and has seen issues arise where development takes place and the developer has permits from the State DES, but there aren't enough people to then follow up to ensure that the permit requirements were met, so this bill would provide for consultants to do that work. He stated both of these bills are still in Legislative Service Request (LSR) stage. He stated that progress of bills can be followed on the State website. Next he discussed the various committees to which he is assigned including Sci-Tech and energy commission



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which will be looking at renewable energy sources to reduce greenhouse and global warming effects. Also, he has spoke with Rep. Neal Kirk who introduced a bill to eliminate the special account in the retirement system. He stated there are many bills (at least 14) being introduced regarding the retirement system and he urged the Council to review them and give the representatives input as they go along in the process.

Jennifer Brown, District 5, representing Wards 3 and 4, stated that she is sponsoring 2 bills. The first is regarding lowering the registration time for sex offenders who are essentially convicted for having relationships with teenagers but are then treated like pedophiles for the rest of their lives. She feels they should not have to register the rest of their lives as it affects them as parents when bringing kids to school and participating in sports etc. Secondly, she is sponsoring a law to make seatbelts mandatory for everyone in the State. She explained that if this passes the State will receive \$3.7 million from the government which they haven't before because of the high voluntary usage. She stated that every time someone gets catastrophically hurt in an accident, we all pay the bill.

Sarah Hutz, District 5, representing Wards 3 and 4, stated she is also a freshman representative and reviewed the committees she is on. She stated that she is working on license plates that will go towards higher education and is also a co-sponsor of Tom Fargo's bill regarding tidal energy.

Earle Goodwin, District 6, representing Ward 5 and 6, stated that HB230, regarding public right-of-ways being exempt for Verizon and would have cost the city of Dover \$1 million, was voted down in committee on a 0-20 vote.

Mayor Myers thanked them all for coming and for the work they are doing. He then opened the floor to the Council for general questions/comments.

Trefethen stated he has 4 main issues that are all "# 1's" with the first being the oversight of the county budget, second, money being saved at the State level ends up being picked up at the county or city level, third, school funding for 2007-2008 needs to remain as projected and 4th the retirement program.

Myers stated he submitted comments to the County regarding their budget and he has received a response and feels it was important for them to understand the impact of their budget of cities. He stated he will also be staying on top of the retirement issue and has been proactive on particular bills and will keep the lines of communication open via e-mail, phone, etc to enhance representation of Dover citizens at all levels. He concluded by stating that they scheduled a waterfront update for tonight as well to get the representatives involved and excited about the project and invited them to stay if



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they could. He stated he had also invited U.S. Senators Gregg and Sununu and Representative Carol Shea-Porter this evening and all sent representatives from their offices.

3. WATERFRONT DEVELOPMENT UPDATE

Mayor Myers began by introducing Cochecho Waterfront Development Authority Committee (CWDAC) Chairman Jack Mettee to bring everyone up to date since their last presentation in late fall. Mettee explained that since the original presentation the public discussion and concerns have been heard by the committee through a public outreach process which involved over 75 residents. He stated that there was a design sub-committee who have been meeting since that time and those ideas and comments have since been updated and reflected in the current design plans. He stated that it was also important to keep with the vision of the 1995 Charette document. He stated the current plan was unanimously endorsed by the CWDAC as well as by the Chamber of Commerce and feels that there is a tremendous difference in the quality of this plan.

Mark Dickinson stated that the plan has evolved in a very positive way. He stated that development is a process and when more voices are heard, more listening happens and the result is a better plan. He stated he was very pleased with the endorsements and the positive editorial in the 02/06/07 Foster's. He stated there is good community support but this still has a long way to go.

Mayor Myers asked Jack Mettee to review the handout (see 03/07/07 folder and Docutron). Mr. Mettee reviewed the information which was presented via an analogy of a baseball diamond, which this project is currently at "First base" with concept/design and appraisals to achieve a term sheet. "Second base" consists of studies and public hearings which is to develop a Land Development Agreement (LDA). "Third base" consists of Final Design and Permitting and more public hearings to achieve Land Transfer and then finally back at Home Plate to Start the Construction phase. He stated there will be a Clerk of the Works representing the City of Dover point of view and the developer will report back to CWDAC periodically throughout the process. He concluded that the key to "first base" is the term sheet and he introduced Attorney Jim Schulte who has been working to bring forward a term sheet and has sacrificed a lot of time and effort in the process.

Jim Schulte reviewed the term sheet process handout (see 03/07/07 folder and Docutron) He stated that the term sheet is meant to set forth the intentions of the community and the developer to achieve this development. He stated the City return will be increased real estate taxes and will also alleviate a number of obligations to this site which the city has owned since 1859. The environmental problems will not go away



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and this process will generate revenue to clean up this site without tax dollars which may also include the odor problem if we are lucky, but if not, this will again generate the money to deal with it without tax money. He continued that Phase I will include a restaurant and office space and the waterfront park. Utilities will be installed and most of the streets will be constructed. He stated that Dickinson will do Phase I and if there are other Phases done by someone else, they will have to be approved by the Dover Housing Authority. He stated the term sheet should be done in about 2 weeks and come before the Council at the 02/28/07 meeting and then once that is done the Land Use Agreement will be done within 90 days later and will address how the land will be conveyed to the developer and the access to the land. He stated that the streets will be deeded back to the city once they meet all of the standards as city streets and sidewalks.

Next Mr. Schulte discussed the approximate purchase price of \$4.5 to \$5.2 million which remains subject to negotiation and will be based on the appraisal of the property. He stated the developer will receive credit on the purchase price for improvements along the waterfront to benefit the public which will include walkways, the pier, stabilization of the banking and other amenities which is expected to be around \$2 million. Dickinson will also pay for the environmental remediation which may be up to \$500,000. He will pay for the construction of the streets and installation of the utilities and the construction of the buildings.

Hindle asked what does the appraisal entail and would like the documentation of the RFP and appraisal.

Schulte stated yes they will be coming back with the valuation of the land which will be an open-market value as is but will be subject to the limitations of the Charette and will also include the value of the project if the approvals are granted as presented.

Hindle stated that the term sheet is to come back to the council in 2 weeks and asked would the Land Transfer also come before the Council.

Schulte stated there will be a resolution drafted to transfer the deed upon conditions being met of the Land Development Agreement.

Ciotti asked if the Land Transfer will include the entire 30 acres or will it be done in phases like the development will be.

Schulte stated it is more like 20 acres and he then explained that there will be provisions that if it is not developed within a certain amount of time it will be given back to the City.

Discussion ensued regarding protection of the city's rights.

Schulte stated there will be protective covenants that will be in place and can only be changed if the city agrees to modify them.



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Turner stated that he is concerned that this includes the bluffs area as he feels this should be kept separate and should only include what is being proposed with this development and not future development.

Schulte explained that Dickinson expects to develop the bluff area as well which will probably be residential, but he needs that included for the financing.

Turner asked when all is said and done it ends up being 16 acres for \$1.5 million.

Discussion ensued regarding the value of the land.

Keays asked what the time limit will be to develop or will it all be done in phases.

Dickinson explained that it will not be developed all at once and will be a 5-year phased in process.

Discussion ensued regarding the phases.

Architect Gary Gardner explained the changes made from the first proposal to this current design stating that this one resolves the issue of the 1995 Charette and brings the buildings closer to the waterfront, includes a strip park and boardwalk on the rivers edge and retail space on the boardwalk as well. He stated it includes a public landing pier which may accommodate excursion boat activity etc. He continued to review the various changes to the plan including better connection to the waterfront, different architectural detail, not uniform, vertical ownership which would allow someone to own a shop on the bottom floor and live above it, etc.

Dickinson pointed out the parking design stating that there are pocket parking areas and there won't be big areas of asphalt in any one place. He stated that this new design follows the curve of the river and are no longer rectangular lots. He stated that he understands that people are concerned with the cost of the units but feels there is a market for these types of units and will generate tax revenue for the city.

Turner stated he is concerned that there is no "turn-around" area for larger vehicles, i.e. delivery trucks, moving vans, etc.

Dickinson explained that there is no cu-de-sac area but that the roads are wide enough to accommodate trucks and fire apparatus etc.

Mayor Myers introduced Mike Asselin, Sr. Project Manager for GZA Environmental Inc. whose specialty is brownfields investigation and redevelopment. He reviewed the Summary of Environmental Conditions regarding the Cochecho Waterfront Development (See 03/07/07 folder and Docutron). He explained that a brownfield is a currently unoccupied site with unknown contaminants but is not like a superfund site. He explained that once the unknown contaminants are better understood on a brownfield site, a developer can address the corrections and put the land back into use safely. He then reviewed his presentation.

Cheney asked that this information be posted on the website.



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Keays stated he understands that Mr. Asselin is a professional, but he disagrees that this site wasn't a landfill as he knows what was dumped up there and used to shoot rats.

Turner clarified that there was no testing for radioactivity.

Mr. Asselin confirmed that this was not a part of the scope.

Turner asked what happens if the cost to clean up this site runs over the estimated \$500,000 would GZA feel comfortable with reimbursing the extra money?

Asselin explained that based on the work done on this site which was as extensive or more than other site, he is comfortable with their findings but as with anything, there may be unknowns.

Myers clarified that any development has to go through the State permitting process.

Ciotti asked if there will be monitoring wells installed afterwards in case the landfill starts seeping and what happens if these are damaged.

It was clarified that there are already monitoring wells and 5 year reviews. He stated that if there is any damage during the construction then they will have to be replaced by the developer. He stated the wells will continued to be monitored until the contamination levels drop below standards at which time the State will release the monitoring requirements.

Ciotti asked if any of the wells are in the footprints of the new buildings being proposed. Asselin stated if there are, the State will have to approve moving them.

Trefethen asked if Dickinson will be taking the responsibility of the wells once the land ownership is transferred to him.

Joyal stated that would be handled through negotiations.

Trefethen asked what happens if in 10 years something else shows up, who would be responsible for that remediation.

Joyal stated that the developer will not take on the liability of contamination, nor would any developer. He stated the city will own this liability forever.

Trefethen stated that the estimate of \$500,000 for remediation is for the 22 acres that will be developed and there may be some unknowns, but asked what is the likelihood that the estimate will be off by 20% or more or could the difference be between \$50,000 or millions?

Asselin stated that they look at how much investigation has already been done and they also know that the unknowns aren't going to be huge but they could find something when construction starts and if they find contaminated soil where there wasn't a test pit, but the contamination is going to be the same as what they found at other areas. He stated it would be +/- 20%.

Mayor Myers had a follow up comment regarding the term sheet stating that there was a resolution passed 2 years ago by the council to transfer the Authority of the Waterfront Development to the DHA, but the lawyers have said that it didn't clearly state the intent enough although the parameters were set after a year of deliberations. He stated the



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CWDAC has gone above and beyond in the commitment and public inclusiveness and should have earned the respect and trust to make these decisions. He stated we have heard tonight that there will be no extra city money spent without Council approval but he will be sponsoring a resolution to reaffirm that position taken by the Council 2 years ago to give DHA the authority to enter into this agreement and he will work with Attorney Krans to ensure the city interests. He asked that the Council review the term sheet carefully when they receive it which they will get separately from the resolution. He stated the intent was and is to keep politics out of the process as much as possible.

Keays disagrees stating the people elected the Council to do the job for them and it is a part of the job to make this decision. He stated the committee did a good job but there have been unposted meetings and if the Council decides this then people will be able to see how they vote.

4. ADJOURN

Hindle moved to adjourn at 9:35 p.m, seconded by Trefethen and passed unanimously.