

**MINUTES
DOVER CITY COUNCIL
CITY COUNCIL CHAMBERS
REGULAR COUNCIL MEETING
JUNE 8, 2005**

6:00 P.M.

**NON-PUBLIC SESSION
CITY MANAGER'S OFFICE**

The City Council met in non public session to discuss Labor Negotiations and consideration of the acquisition, sale or lease of property.

NOTE: **This meeting is not open to the public per RSA 91-A:2 (b) and RSA 91A-3 II (d).**

7:00 P.M.

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

Councilor Perry led the Pledge of Allegiance.

3. ROLL CALL

Members Present: Councilor Matt Mayberry, Mayor Scott Myers, Councilor Otis Perry, Councilor Robert Lewis, Councilor Dean Trefethen, Councilor Colwell-Ellis, Councilor Doug DeDe, Mayor Pro Tem Jason Hindle and Councilor Bob Keays.

4. PROCLAMATIONS/AWARDS - NONE

5. CITIZEN'S FORUM

Mayor Myers opened the Citizens Forum and explained that due to the number of audience members the 3 minute limit will be enforced and each speaker will be allowed to speak only once. He discussed the petition that has been circulated to residents that contains many untruths and would like people to know both sides of the issue before signing their names.

Rick Hebbard, 97 Spruce Lane - asked the Mayor to allow people to speak longer than 3 minutes and feels that it intimidates people when they are limited.

Charles Lewis, 10 Whittier Street – feels that the Council has tried to do a good job but feels that they should give departments more specific direction at budget time and how much to cut.

Dave Mincin, 366 Central Ave – addressed the proposed city manager contract and outlined the various items that are of concern.

The Mayor responded to some of the figures being quoted and Councilor DeDe called a point of order that the rules don't allow for Council response.

Norm Champagne, 13 Church St. - stated he is tired of hearing about the City Manager and Department Heads pay and feels that the problem in the city is that we are living a lifestyle that we can't afford. The City has 2 pools, 2 arenas and a recreation department and that is nobody's fault except the City Council. He hopes that if Mike Joyal is selected City Manager he can put a stop to the spending and feels that he should be given a chance to do the job.

Ray Bardwell, 199 Spur Road – wishes that the public hearing for the City Manager contract could have been held 2 months ago to give people a chance to give more input before the Council voted. He is disturbed that this didn't go to a full search and therefore we don't know how many responses we may have been able to get. He continued that he doesn't feel that this should be an open ended contract and should include a yearly review with specific goals to be met. He concluded stating that he was disappointed that the information he distributed last week regarding the gravel pit money from Severino Trucking was not discussed and feels that this money should be going into the general fund and that way it could be used for the waterfront development. He feels this is a backdoor increase in the recreation budget every year.

Don Medbury, 3 Covered Bridge Lane – began by reciting passages from the State of New Hampshire constitution regarding the right to speak. Next he referred to the Letter to the Editor appearing in tonight's Foster's which he wrote disputing Mike Joyal's assessment of the survey results regarding Municipal Services. He then stated that Mr. Joyal did not complete his assignment as Acting City Manager which was to complete the search for a new City Manager. He also discussed Councilor Perry's decision to recuse himself from the vote for the City Manager contract.

David Scott, 220 Back Road – speaking on behalf of the people who signed a petition presented to several Councilors to vote no on the City Manager contract. He continued regarding the various costs of the proposed contract and also cited the recent search for a city manager in York Maine which only paid \$4,500 to conduct a search which resulted in 60 responses. He concluded by asking Councilor Perry to explain his conflict of interest and accuses the Council of running a scam.

Carol Boc, 8 Arch Street – speaking for herself as a resident and is also a board member of Dover Main Street. She fully supports Mike Joyal as the City Manager and feels he has the expertise, education and professionalism needed to continue the positive growth in Dover. She feels she is also representative of the very busy silent majority in this support.

Jean O'Shea, 5 Chartergrant Road – stated that Mr. Scott does not represent her or many others. She supports Mike Joyal and feels that he is a known commodity and doesn't think that we need to look around for something that we already have, stating that it was a mistake to begin a search in the first place.

Catherine Cheney, 9 Snow's Court – moved to Dover in 2001 from Bow, NH which had a lower tax rate. She feels that when Mike Joyal previously stated that he was not interested in the job and then changed his mind it made him look like someone who will change direction easily. She continued that sometimes an outsider can bring something new to the table.

Robert Cloutier, Shady Lane – has been a resident for 60 years and has seen his taxes double in the last 5 years although his retirement only goes up 2% a year. He discussed new development which doesn't generate enough taxes to keep up with the increased demand on city services and is bad planning. He concluded by stating that the department heads should be given an amount to decrease their budget by and do it, or find someone else to do the job.

Pam Sawyer, 5th Street – has nothing personal against Mike Joyal but doesn't like the way the search was conducted. She feels that Joyal should use a city vehicle and not get an allowance for using his own and is also concerned with the open ended personal/sick days. She concluded by addressing the York Maine manager search which also sought public input throughout the process.

Audra Lurvey, 12 Cedarbrook Dr – spoke in support of Mike Joyal as the City Manager.

John Scruton, 99 Sixth Street – stated his taxes have doubled over the last 4 years and feels that there should be an outside audit firm hired to look at the books.

Jack White, 9 McKenna St – wants the Council to vote against the contract and continue the search stating that there was no explanation given as to why it was stopped.

Peter Schmidt, 53A Fourth St – State Rep for wards 1 and 2, has followed the process for the City Manager selection and discussed the history of the previous City Manager stating that the Council is responsible for the budgets that are passed, not the City Manager. Paul Beecher had always told the Council that he would run the city on whatever money they gave him, but sometimes it would mean cutting services. He next addressed that the search was stopped because Mike Joyal decided that he would be available for the job although he initially had said no. He feels that Mike Joyal is extremely dedicated to the City of Dover and knows the job inside and out as he has been here for 13 years. It would have cost the city a lot more money to continue the search because we would have to pay expenses to bring the candidates to town for interviews and it would take time for someone new to come up to speed and only then would we know if we had made the right choice.

(Don Medbury began to rebut Mr. Schmidts comments at which time the Mayor called him out of order)

Paul Thorpe, 906 Central Ave – hopes the Council listens to the voice of the citizens.

Debbie Ellis, 535 Tolend Rd- feels that Mr. Scott has at least opened up some eyes but that everyone is acting childishly with the fighting back and forth. She feels that if Joyal is qualified for the job, then he should be able to take it, but wonders if he would consider taking a smaller salary for the first year and have an incentive bonus after a year instead.

Margaret Trefethen, 9 Danielle Lane – works at Liberty Mutual in the payroll department and feels that for the responsibilities and qualifications required for this job, the salary is not unreasonable. She stated that Dover is a wonderful community and it costs money. She urged the citizens to let their Councilors know what they are willing to do without if they want the budget reduced.

(Norm Champagne and Charles Lewis both got up to speak again but were out of order)

Christina Hollinger, Back Rd – was one of the people who gathered signatures on the petitions and feels that more time should have been given for citizen input during the process. She feels that whenever a group of citizens speak against the city they are put down and wants the Council to listen to their constituents.

Seeing no one else wishing to speak the Mayor closed the citizens forum.

6. PUBLIC HEARINGS

- A. Resolution Re: Fiscal Year 2005 Budget Amendment #3. Sponsored by Mayor Scott Myers, by Request.

The Mayor opened the public hearing asking if anyone wished to speak. Seeing no one, the Mayor closed the public hearing.

Hindle moved to suspend the rules to bring item 12B-1 up on the agenda, seconded by Mayberry. Motion passed on a 7-1 roll call vote, DeDe opposed, Perry abstained.

Mayor Myers addressed Council Perry's previous announcement that he would abstain from voting on the City Manager issue due to a possible conflict of interest with his contracted services with the Dover Housing Authority. Myers stated he has reviewed the Charter and DHA procedures, obtained legal opinions including one from the NHMA and has not found any grounds for a conflict of interest. The DHA is an independent corporation and is not an agency of the city. Councilor Perry was the only bidder to an add appearing in the Foster's and did not receive any favorable treatment. There is no pecuniary (financial) interest in this case and therefore he as the Mayor rules that there is no conflict of interest and Councilor Perry can vote on this issue. He then asked the Clerk to call the roll again on suspending the rules.

Motion to bring item 12B-1 up on the agenda passed on an 8-1 roll call vote, DeDe opposed.

Hindle moved to adopt, seconded by Mayberry.

DeDe feels that Joyal is qualified but the citizens of Dover have been deprived of the process.

Hindle will also vote against as he feels the process should have continued. He discussed the open ended contract issue stating that it is State law that there not be an expiration date for a City Manager contract. He also agrees with the comments regarding more public input stating that he would like to bring back the "Speak Out" forums that were held 7-8 years ago meant to give citizens an opportunity to ask questions and learn more about city government.

Keays will vote in support of Joyal.

Lewis clarified that there are no set sick days and personal days but feels that people in this position usually put in more hours and work sick and knows that Mike is available 24 hours a day and has a get the job done attitude. He concluded that it is up to the Council to decide if he is not doing the job.

Mayberry stated that he will be supporting the contract despite the petitions because as a Councilor he has a fiduciary responsibility to make responsible decisions. He addressed the petition stating that he feels there was a one-sided story being presented and was told that there were 400 signatures, but has only been give 128 at this point. He finds it interesting that people keep saying it's not personal against Mr. Joyal because they don't know him, but he does know him and has seen him work over the last few years and specifically cited the turnaround at the Arena.

Trefethen stated that for the past 5-6 months Joyal has been "acting" manager and has performed very well. He addressed the sick days stating that he is one of the people who has "unlimited" sick time, but usually only uses 1-2 a year and goes to work sick instead because it is a part of his performance review. He feels that when there is a set number of "use it or lose it" days, people take them regardless. He concluded by stating that although he does support Joyal for the Manager position, he will vote against the contract due to 3 items in the contract that he cannot support.

Mayor Myers stated that when the contract was released a week ago there were some issues that were brought up but he feels it is fair. Joyal has already been on the job and put in many hours and this is not a dress rehearsal and may have more to prove because he is an "insider". He addressed the concern that he learned from the previous City Manager and therefore will be just like him, but feels that any underling will follow the party line as a matter of loyalty to their employer even if they don't necessarily agree.

Motion to adopt passed on a 6-3 roll call vote, Trefethen, DeDe and Hindle opposed.

8:35-8:45 - RECESS/RECONVENED

7. MINUTES - NONE

8. REPORTS OF SPECIAL AND STANDING COMMITTEES

A. Appointments Committee – Councilor Otis Perry - NONE

B. Arena Commission – Councilor Darlene Colwell-Ellis

Colwell Ellis reported that they are taking registrations for Camp Kool at the Arena and has information on the summer party packages that will be offered as well. She stated that as of April the Arena was \$34,000 in the black.

C. Arts Commission – Councilor Matt Mayberry - NONE

D. McConnell Center Committee – Councilor Otis Perry/Councilor Doug DeDe

DeDe stated that they have been meeting weekly and will be meeting this week with the architect to review plans for parking. Perry stated they have also begun negotiating leases with the tenants.

E. Planning Board– Councilor Dean Trefethen (*Report submitted*)

Trefethen stated that on May 10th they held a citizens forum regarding the proposed bike path behind Belknap and Fisher Streets and he is concerned because the neighbors only became aware of this project when they saw the surveyors. The neighbors are concerned with vandalism and trash issues and he had been told that this was part of the plan all along, but the neighbors didn't know this. Also, they began the annual renewal process for extraction permits for gravel pits and out of the 5, none are in compliance with the ordinance that they helped write. Last year they were lenient, but this year they will not be.

Lewis asked regarding the bike path is there a concrete plan in place?

Trefethen explained that the surveyors are currently trying to get the lay of the land and there are wetlands involved.

F. Cable Franchise Negotiations Committee – Councilor Doug DeDe

DeDe stated that the Committee will meet on 06/09 with Comcast personnel.

G. School Board Liaison – Councilor Doug DeDe – NONE

H. Solid Waste Advisory Commission – Councilor Otis Perry – NONE

I. Transportation Advisory Commission – Councilor Jason Hindle

Hindle stated the TAC met June 2nd in a special meeting to discuss Lincoln Street.

J. Joint Building Committee – Councilor Jason Hindle

Hindle stated the JBC met on 06/07 and will be reviewing bids at their next meeting.

K. Recreation Advisory Board – Councilor Bob Keays

Keays read the minutes of the May Rec Board meeting.

L. COAST Bus – Mayor Scott Myers – NONE

Hindle moved to accept the reports, seconded by Trefethen. Motion passed on a 9-0 vote.

9. MAYOR'S REPORT

Mayor Myers stated he attended several ribbon cuttings in the last month.

He attended the Dover Little League opening day and attended the Memorial Day ceremony with Councilors DeDe and Mayberry. He also met with Liberty Mutual along with Mike Joyal regarding their proposed expansion.

Hindle moved to accept the Mayor's Report, seconded by Mayberry. Motion passed on a 9-0 vote.

10. CITY MANAGER'S REPORT

Manager Joyal referred to his written report and stated that a highlight is the city's bond rating was recently raised by 2 different companies; Standard and Poore now rates us at AA- and Moody's now rates us at A1-.. Some of the reasons cited for the upgrade in ratings included strong residential/commercial growth, maintaining of fund balance at the established level and not using it to fund the budget as well as the improvement to the Arena Enterprise Fund.

Joyal then asked Finance Director Jeff Harrington to come up and accept a Certificate of Achievement for the city's Comprehensive Annual Financial Report – 2004.

Trefethen asked about the Henry Law project and is it supposed to start this year because there are no signs of anything happening there yet. Also, are there going to be neighborhood meetings.

Joyal stated the design work is complete and we are currently settling right-of-way issues with some neighbors.

Lewis asked when the project on 108 north of Week's Crossing will begin.

Lavoie stated it is a part of the Transportation Improvement Program (TIP) and is moving forward, but is unsure of the exact start date.

Hindle commended Joyal and the facilities and grounds staff for getting the cemetery ready for Memorial Day in spite of all the rain.

Mayor Myers reiterated the reasons for the improvement in the bond rating.

Hindle moved to accept the Manager's Report, seconded by Mayberry.

Motion passed on a 9-0 vote.

11. UNFINISHED BUSINESS

A. ORDINANCES IN 2ND READING - NONE

B. ORDINANCES IN 3RD READING – NONE

C. RESOLUTIONS

1. Resolution Re: Fiscal Year 2005 Budget Amendment #3. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry. Motion passed on a 9-0 roll call vote.

12. NEW BUSINESS

A. CONSENT CALENDAR

1. Tag Permit – Dover Little Green Football
2. Raffle Permit – Artists in Residence (AIR)
3. Raffle Permit – Community Services Dept, Recreation Division
4. Raffle Permit – Greater Dover Chamber of Commerce
5. Fireworks Permit - Community Services Dept, Recreation Division
6. Street Closure Request – Apple Harvest Day - Greater Dover Chamber of Commerce

Hindle moved to grant items 12A1-6, seconded by Mayberry.

Motion passed on a 9-0 vote.

B. RESOLUTIONS

1. ~~Resolution RE: Appointment of J. Michael Joyal Jr. as City Manager and Related Employment Agreement. Sponsored by Mayor Scott Myers, by Request.~~
See above
2. Resolution RE: Collective Bargaining Agreement between the City of Dover and the DPAA II. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Motion FAILED on a 1-8 roll call vote, Mayberry in favor.

Hindle moved to suspend the rules to introduce Item 12B-8, seconded by Perry. Motion passed on a 9-0 roll call vote.

8. Resolution RE: Collective Bargaining Agreement between the City of Dover and the DPA. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Motion FAILED on a 1-8 roll call vote, Mayberry in favor.

3. Resolution RE: Authorization for Use of Corporate Credit Cards by Departments. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Perry.

Joyal explained that this will allow for better tracking and accountability and will be paid off every month. All purchasing procedures will still be in place and will be issued to department heads only. Perry asked if the city has a written policy regarding credit cards.

Joyal stated not yet, he is waiting for the information from Citizen's Bank.

Motion to adopt passed on an 8-1 vote, Hindle opposed.

4. Resolution RE: Award of RFP #B05072 for Design/Build Construction Services – Fire Station Renovations/Alterations. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Trefethen asked if there was a list of specifications on the bid because the 2 bids are substantially different; 1 story vs. 2 story.

Joyal explained that they were allowed to go with whatever concept as long as it met the square footage requirement, but we prefer the 2 story design.

DeDe asked if this includes building the structure and noted that it doesn't allow for specific expansion of vehicle space. He further stated that he has negative feelings about the south end station anyway and doesn't want to put more money into that site.

Keays has a concern with the contractor chosen stating that there were problems with the Butterfield Gym entrance project with this company.

Gary Bannon explained that there were issues with that project but that the contractor addressed them and came back until we were satisfied. He explained that it was done during the winter so there were problems but they were corrected.

Lewis is concerned that we go out to bid and look at the numbers and don't address quality issues.

Joyal explained that there is more analysis that goes on with awarding of bids.

Fire Chief Perry Plummer stated he did call Careno about those concerns. He has found that both contractors have had issues on various projects which they resolved and both have many excellent references as well. He went with Careno because Horne didn't address the hose tower directly and it needed to be addressed up front, also, the one story concept required excavation which involves some uncertainty and also took away parking which would have to be replaced.

Discussion ensued regarding ensuring satisfaction with the project.

Motion passed on a 7-2 roll call vote, DeDe and Keays opposed.

5. Resolution RE: Award of Bid #B05074 for Chemicals. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Motion passed on a 9-0 roll call vote.

6. Resolution RE: Award of Bid #B05075 for Tree Removal/Pruning Services. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Lewis asked if the city has a substantive tree maintenance program.

Joyal explained that we no longer have a city arborist but we do have streetscapes that are a valuable amenity. The city does track trees and makes decisions on a case by case basis.

DeDe is concerned that we are awarding the bid on a rate basis but there is no scope of service defined.

Discussion ensued. Lewis asked that a program be developed perhaps by the Open Lands Committee.

Motion to adopt passed on a 9-0 roll call vote.

7. Resolution RE: Award of Bid #B05076 for Toughbook Laptop Computers. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Motion passed on a 9-0 roll call vote.

Hindle moved to suspend the rules to introduce item 12B-9, seconded by Perry.

Motion passed on a 9-0 roll call vote.

9. Resolution RE: City Wide Reorganization Effort. Sponsored by Councilor at large Otis E. Perry and Ward 2 Councilor Douglas DeDe.

Perry moved to adopt, seconded by Hindle.

Perry moved to amend by adding language to require committee to submit a preliminary report in October 2005 and a final report in November 2005, seconded by Hindle. Motion passed on a 9-0 vote.

Mayberry asked if the City Manager was aware of this prior to the meeting and if the School Department is even aware of this resolution yet.

Joyal stated yes he was aware of this and feels that it will be a good exercise for both sides. However he is concerned with having employees on the committee.

Perry wants employees involved as participants and not to give testimonial input.

Mayberry moved to table, seconded by Lewis. Motion failed on a 3-6 vote, Keays, Lewis and Mayberry in favor.

After various motions regarding membership of the committee, Lewis moved to amend membership of committee to state as follows: "The committee shall consist of 2 councilors, 2 school board members, the City Manager, the School Superintendent and one citizen to be selected by the Mayor" seconded by Mayberry. Motion passed on an 8-1 vote, Perry opposed.

Motion to adopt as amended passed on an 8-1 vote, Keays opposed.

C. ORDINANCES IN 1ST READING

1. Ordinance #16-06/08/2005, Chapter 9, Budget, Section 9-31, Annual Permit and License Fee Adjustments. Sponsored by Mayor Scott Myers by Request.

Hindle moved to refer to a public hearing on July 13, 2005, seconded by Mayberry. Motion passed on a 9-0 vote.

D. COUNCIL CORRESPONDENCE

1. Wetlands Application – Barry Williams
2. Wetlands Application – Franklin Biehl
3. Wetlands Application – Rene and Elizabeth Dubois

Hindle moved to accept and place on file, seconded by Mayberry. Motion passed on a 9-0 vote.

13. COUNCIL MATTERS OF INTEREST

Hindle stated that there was emotional debate this evening and thanked the Council for their professionalism and looks forward to working with Manager Joyal.

DeDe would like to have seen the gavel used more this evening.

Perry addressed Citizen Forum speaker Ray Bardwells' concerns with the figures he had distributed and was unsure if he had all of the amounts.

Keays mentioned that a friend of his had requested a list of information from the city and was charged \$15.00 and felt this was ridiculous. Also, he had made Joyal aware of the ditches on Maple Street 2 weeks ago and nothing has still been done.

Mayor Myers reminded the Council of the upcoming Tri City Council meeting on July 7th.

14. ADJOURN

Lewis moved to adjourn at 10:15 p.m., seconded and passed unanimously.

**Valerie A. French
Deputy City Clerk**