

**MINUTES  
DOVER CITY COUNCIL  
CITY COUNCIL CHAMBERS  
REGULAR COUNCIL MEETING  
NOVEMBER 9, 2005  
7:00 P.M.**

**6:30 P.M.**  
**NON-PUBLIC SESSION**  
**CITY MANAGER'S OFFICE**

The City Council met in non public session to discuss Personnel.

**7:00 P.M.**

The Mayor called the meeting to order at 7:12 p.m. and apologized for the delay.

**1. MOMENT OF SILENCE**

**2. PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Hindle led the Pledge of Allegiance.

**3. ROLL CALL**

Councilors Present: Doug Dede, Jason Hindle, Robert Keays, Matt Mayberry, Scott Myers, Otis Perry, Bob Lewis, Dean Trefethen and Darlene Colwell-Ellis.

**4. PROCLAMATIONS/AWARDS**

Mayor Myers read letters of thanks and presented certificates from Union County American Red Cross and First United Methodist Church of El Dorado Arkansas to the following City of Dover firefighters for their volunteer efforts during the recent Hurricane Katrina and Hurricane Rita recovery: Lt. David Lindh Jr., Firefighter Jeff Hudick, Engineer/Paramedic Nick Xenos, Firefighter E.J. Hoyt; Firefighter/Paramedic Josh Hoffman and Firefighter Mike Ferullo.

Next, Kathy DesRoches of the UNH Technology Transfer Center Roads Scholar Program presented Community Services, Water Division employee Sharon Lucey with the Level 4 Master Roads Scholar Award.

**5. CITIZEN'S FORUM**

The Mayor opened the Citizens' Forum asking if anyone wished to speak:

**Ray Bardwell**, 199 Spur Road read a prepared statement (see 11/09/05 meeting folder) regarding Little Bay Bridge and Road Project and asked them to reconsider their support of Alternative 3 citing 14 various concerns.

**Rick Hebbard**, 97 Spruce Lane, supports Mr. Bardwells comments and asked the council to look at a different design.

Seeing no one else wishing to speak the Mayor closed the citizen's forum.

**6. PUBLIC HEARINGS**

- A.** Resolution RE: Acceptance of Ivans Lane as a City Street. Sponsored by Mayor Scott Myers by Request. (**See Item 11C-1**)

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

- B. Resolution RE: Appropriation for FY07 Capital Improvements Program and Authorization for Bonding. Sponsored by Mayor Scott Myers by Request. (*PUBLIC HEARING ONLY – Refer to December 7, 2005 for Adoption*)**

**Dona Layton**, Chair of Open Lands Committee read a prepared statement outlining the various accomplishments of the committee and urged Council support of the 1,000,000 in CIP for Land preservation.

**Katherine Forbes**, 215 Longhill Road, spoke in support of the McConnell Center stating that it will serve as an anchor for the downtown area. Also, as a former School Board Chair, she supports the Woodman Park School renovation stating that it needed to be done 20 years ago. Finally, she stated that open lands is the most important item on the CIP as it ultimately saves tax dollars.

**Don Briand**, representing the Cocheco Arts Academy Board of Trustees spoke in favor of the McConnell Center as this is where the Academy will be located in the future.

**Jerry Marks**, Chair of the Socials Works Department at UNH also supports the McConnell Center stating that it offers a unique opportunity for students to learn about a wide array of services under one roof as well as the convenience of being located downtown and on the bus route.

**Jim Verschuren**, 182 Sixth Street, supports the McConnell Center and is looking forward to having the Adult Learning Center relocate there as they have outgrown their present space.

**Tim Paretto**, 83 County Farm Road and HUB representative – also spoke in favor of the McConnell Center and explained how having the various services located under one roof helps them to achieve their goals of strengthening family units.

Seeing no one else to speak, the Mayor closed the public hearing.

## **7. MINUTES**

- A. Special Meeting/ Workshop – October 5, 2005
- B. Council Workshop – October 19, 2005
- C. Council Workshop – October 26, 2005

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

## **8. REPORTS OF SPECIAL AND STANDING COMMITTEES**

- A. Appointments Committee – Councilor Otis Perry - NO REPORT**
- B. Arena Commission – Councilor Darlene Colwell-Ellis (*Report Submitted*)**

Colwell Ellis read the report from the October 18, 2005 Arena Commission meeting.

- C. Arts Commission – Councilor Matt Mayberry - NO REPORT**
- D. McConnell Center Committee – Councilor Otis Perry/Councilor Doug DeDe**

DeDe stated that the group meets every Friday morning and he is pleased with the progress they are making and would like to continue working with this group his next term. He thanked the Planning staff for their work and concluded that they are currently in the process of getting agreements with potential tenants with the Charter School being the first.

Perry stated there is a resolution on the agenda tonight to hire a Manager of the project which will help to more closely track the expenses.

**E. Planning Board– Councilor Dean Trefethen (REPORT SUBMITTED)**

**F. Cable Franchise Negotiations Committee – Councilor Doug DeDe**

DeDe stated the Committee will be meeting on November 10<sup>th</sup>.

**G. School Board Liaison – Councilor Doug DeDe (REPORT SUBMITTED)**

**H. City/School Joint Services Study Committee – Councilor Doug DeDe**

DeDe stated that he has asked that the City Manager and School Board Superintendent get together to come up with some areas to consolidate services.

Hindle asked if the final report will be ready by December as outlined in the resolution.

DeDe stated no and feels he needs more cooperation.

**I. Solid Waste Advisory Commission – Councilor Otis Perry (REPORT SUBMITTED)**

Trefethen asked about the expansion of the plastic recycling to include up to #6 plastics at the center and will this also include the curbside service.

Perry stated that these have always been informally collected at curbside but will now also be accepted at the recycle center.

DeDe stated that the new bags appear to be smaller, not as strong and doesn't hold the capacity.

Perry stated that this often comes up when the bags are changed and a different vendor is used, but stated that they may appear slightly smaller but the capacity is the same due to the drawstring feature.

Joyal clarified that the drawstrings are not meant to be used as handles to carry the bags.

Perry stated that the committee was asked to get drawstring bags.

**J. Transportation Advisory Commission – Councilor Jason Hindle - NO REPORT**

**K. Joint Building Committee – Councilor Jason Hindle – NO REPORT**

**L. Recreation Advisory Board – Councilor Bob Keays (REPORT SUBMITTED)**

**M. COAST Bus – Mayor Scott Myers - NO REPORT**

Hindle moved to accept the reports and place on file, seconded by Mayberry.

Motion passed on a 9-0 vote.

## **9. MAYOR'S REPORT**

Mayor Myers stated he and Councilor Mayberry attended a press conference at the Police Department with Governor Lynch and the County Attorney. He then thanked the City Clerk, her staff and the election workers for their work on election day and congratulated the candidates. Next, he stated a tour of various city facilities listed on the CIP was recently taken. Finally he announced that the Veteran's Day ceremony will be held on Friday 11/11/05 at the City Hall Auditorium at 11:00 a.m.

Hindle moved to accept the Mayor's report, seconded by Mayberry.

Motion passed on a 9-0 vote.

## **10. CITY MANAGER'S REPORT**

Joyal stated he has been contacted by Senator Gregg's office and the funding will be forthcoming, but unfortunately, the window has passed for this dredge season so it won't be done until next fall/winter season. He stated he is pulling resolution 12B-2 from the agenda and explained that because of the delay we need to put a temporary cap on the cell and will bring the resolution back next week.

Next he stated that the Maglaras Park master plan is ongoing with a recent public hearing held. He explained that this should dovetail with the waterfront development plan. Finally he stated that next week there will be a public hearing held on enabling legislation for TIF (Tax Increment Financing) and again on the CIP in order to satisfy the advertising requirement

Keays asked about the cost of the dredging project and will the city have to pay for the additional cost of the delay.

Joyal stated no, not unless the scope of the project is widened.

Perry asked if the spoil cell was covered last year.

Joyal stated no, but now the rain has filled it and we need to address that and cover it.

Perry asked if it is an impermeable cover.

Environmental Programs Director Dean Peschel stated yes it will be and further explained that we were supposed to dredge 2 consecutive years but now that we aren't it has to be covered.

Trefethen asked if covering it will preclude others from using it.

Peschel stated no, it is a heavy duty plastic which can be opened.

Mayor Myers stated that regarding the funding, the Army Corp of Engineers could decide that this money is needed somewhere else and wonders how secure this funding really is.

Joyal stated there is always a risk of that but feels that Senator Gregg is committed to the project.

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

Motion passed on a 9-0 vote.

## **11. UNFINISHED BUSINESS**

### **A. ORDINANCES IN 2<sup>ND</sup> READING - NONE**

### **B. ORDINANCES IN 3<sup>RD</sup> READING - NONE**

### **C. RESOLUTIONS**

1. Resolution RE: Acceptance of Ivans Lane as a City Street. Sponsored by Mayor Scott Myers by Request.

Hindle moved to adopt, seconded by Perry.

DeDe asked if the road is built to city specifications.

Joyal stated the road has been inspected by the City Engineers and meets the standards. There is also a 2-year performance guarantee and it is bonded.

Trefethen asked if it originally was going to be a private road.

Planning Director Steve Stancel stated no, it was always going to be a public road.

Keays asked if the road is 28'.

Stancel stated no, it is 24' with curbs and sidewalks.

Keays asked if this was standard.

Stancel stated the Planning Board can waive requirements.

Mayor Myers asked if there is no parking on one side.

A gentleman in the audience (resident of Ivan's Lane) responded yes.

Motion to adopt passed on a 9-0 vote.

2. Resolution RE: Council Support of Newington-Dover Project Alternative Three. Sponsored by Mayor Scott Myers and the Dover City Council.

Hindle moved to adopt, seconded by Mayberry.

DeDe stated he has looked at Mr. Bardewell's sketch comparing it to that presented to the Council and feels that it has a much better, smoother flow of traffic.

Trefethen stated he empathizes with the residents in the area but as a City Councilor he feels they have to look at how things affect all residents. He feels that the other residents haven't been represented during this process because it hasn't been on their radar.

Mayor Myers agrees with Trefethen but will support the resolution.

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

## **12. NEW BUSINESS**

### **A. CONSENT CALENDAR**

1. Tag Permit – Dover Little Green Cheerleading
2. Raffle Permit – Dover Main Street, Inc.

Hindle moved to grant permits, seconded by Mayberry. Motion passed on a 9-0 vote.

**B. RESOLUTIONS**

1. Resolution RE: Authorization to Sell Surplus Land Located at 275 Durham Road. Sponsored by Mayor Scott Myers by Request.

Hindle moved to adopt, seconded by Mayberry.

Keays asked how much we are selling this for.

Joyal stated \$150,000.

Keays stated the land was bought for \$90,000 8 years ago and feels we should have gotten more for this now.

Joyal stated there are contingencies involved with the sale.

Keays asked how many acres on this property.

Joyal stated 20 acres, but the majority of it is wetlands.

Keays stated the city bought it as wetlands and still feels the land is more valuable than what we are getting.

Mayor Myers explained that the Council rejected a bid last year for \$133,000 and directed the Manager to market the property through real estate agents and this is what came back.

Mayberry asked how much land will be taken up by the utility easement.

Joyal stated none, but he wants the land to be subdivided for a pump station instead of having an easement which is one of the contingencies he made reference to earlier.

Colwell Ellis asked why are we doing it that way.

Joyal replied that we will own the property.

Trefethen stated that the 4<sup>th</sup> Whereas should be clarified that the city will own the property and not be an easement, seconded by Hindle.

Motion to amend passed on a 7-2 vote, Colwell Ellis and Keays opposed.

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

2. Resolution RE: Award of Change Order #4 for Additional Construction Administration Services – Dredge Cell Construction. Sponsored by Mayor Scott Myers by Request. **(PULLED)**
3. Resolution RE: Acceptance of NHDES Grant Funds for the Purchase of a Conservation Easement within the Secondary Wellhead Protection Zone. Sponsored by Mayor Scott Myers by Request.

Hindle moved to adopt, seconded by Mayberry.

Motion passed on a 9-0 roll call vote.

4. Resolution RE: Human Services (Welfare) Guidelines for the City of Dover. NH. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

The Mayor stated that the Council received the new guidelines via e-mail for review.

Colwell Ellis asked about RSA 165-I-e "Deeming law"

Joyal explained that this means the city does not have to make up the amount of a reduction by another agency.

Motion to adopt passed on a 9-0 vote.

5. Resolution RE: Award of Purchase Order for Engineering Design Services – Infiltration/Inflow Sewer Rehabilitation Project. Sponsored by Mayor Scott Myers by Request.

Hindle moved to adopt, seconded by Mayberry.

DeDe asked if there is a state requirement that precludes the city engineering staff to do this in house.

Joyal stated he is not aware of any but there are sometimes federally funded projects that do.

DeDe feels that the overall scope of this project should have been done by our own staff so that we would know the full scope instead of this bits and pieces approach and asked why can't we do it that way.

Joyal explained that there are 3 phases to the process and this one is to design a solution and get a cost estimate for the fix to put out to bid. He explained that there is an expectation that the same firm will be used for all 3 phases.

DeDe asked why then not just bid out all three phases at once as he feels there are more chances for cost overruns this way.

Perry explained that Phase I may have come back with not needing anything further, and then Phase II and III would have been included for nothing. Phase I defined the problem, this phase is to define the solution.

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

6. Resolution RE: Award of RFQ/RFP #B06019 McConnell Center Construction Manager. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

DeDe explained that by having a construction manager it will be a more cost effective way to run this project.

Lewis clarified we are paying for this prior to any actual work being done.

DeDe stated that this company will over see the McConnell Center project.

Perry explained that the total sum is the fee and general conditions cost including insurance, clean up and general items. He stated that the Purchasing Agent, McConnell Center Committee and Construction Manager will then get the bids for construction to come up with a guaranteed maximum price. If for some reason the contract with the sub-contractors have any problems there will be compensation to the Construction Manager to get to that point, but we will not be paying the full amount.

Lewis asked if each bid area will come back to the Council.

Perry stated no, the total amount will, but all will be reviewed.

Lewis felt that the Architect would be the Clerk of the Works and asked are we now \$1 million above our original estimate.

Perry stated that the total amount is \$5.2 million in the CIP.

DeDe explained that with the Construction Manager any savings realized during the bid process will come back to the city as opposed to having a general contractor who would keep any saved money.

Trefethen stated he is generally against the McConnell Center project, but will vote in favor of this resolution.

Mayor Myers stated this is the right time to bring this to the project as it will protect the city's interests.

Mayberry stated he will abstain from voting as he has a client who works for Martini North.

Joyal stated this award is the result of Committee work and gets a better handle on estimating costs.

Motion to adopt passed on 6-2 roll call vote, Keays and Lewis opposed, Mayberry abstained.

7. Resolution RE: Award of Request for Proposal #B06025 for Catch Basin Cleaning Services. Sponsored by Mayor Scott Myers by Request.

Hindle moved to adopt, seconded by Mayberry.

Motion passed on an 8-1 roll call vote.

8. Resolution RE: Award of Bid #B06017 for Snow Plowing/Hauling Services for City Streets and Parking Lots. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Colwell Ellis.

Motion passed on an 8-1 roll call vote, Keays opposed.

9. Resolution RE: Award of Blanket Purchase Order for Miscellaneous Work Boots/Shoes and Fitness Footwear. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Keays.

Motion passed on an 8-0 roll call vote, Mayor Myers abstained.

10. Resolution RE: Payment of Mr. David Scott's Legal Bills. Sponsored by Councilor Doug DeDe.

DeDe moved to adopt, seconded by Hindle.

Councilor DeDe read the resolution and then explained that he feels that the silence of the Council was part of the reason that this came to this point and they shouldn't have waited for the court to rule. He is aware of the charter ruling by the city attorney, but doesn't agree.

Mayberry feels that a resolution is the wrong way to go because it doesn't address the other 2 litigants, the Union Leader and Foster's. If a judge rules that the City reimburse the legal fees then fine, but would like to see this resolution tabled.

Perry also won't support this because the legal system is set up for courts to decide issues when they are brought before it and if someone brings it to court, they should pay for it. Sometimes there may be extenuating circumstances but that would be determined by the judge. He agrees with DeDe that the Council should have weighed in earlier and this may have been avoided.

Trefethen agrees with Perry.

Hindle asked when the court will make its decision.

Joyal stated the judge is on vacation.

Lewis will vote against this and wants there to be a vote and not tabled.

Hindle wonders if we should table it while we wait for the court decision.

Joyal stated that if the court orders the city to pay it that would be the only authorization needed.

Lewis moved the question.

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

Hindle moved to suspend the rules to introduce item 12B-11, seconded by Mayberry.

Motion passed on a 9-0 roll call vote.

**11. Resolution RE: Release of Salary Information to Public. Sponsored by Councilor Dean Trefethen, City Councilor, Ward 4.**

Trefethen moved to adopt, seconded by Mayberry.

Trefethen explained that Joyal's explanation of not releasing the requested salary information was due to a law passed in the 1980's but feels that this doesn't pertain to public employees and other municipalities already do this. He chose February 28<sup>th</sup> as the release date because final totals have to be prepared for the IRS by the end of January, but doesn't want this information posted on the web for concern of employee safety. He clarified however, that by publishing this information the city council is acknowledging there may be risks involved as there are cases of tragedies involving city employees.

Perry feels that the court has already made this decision and doesn't feel a resolution is necessary and wonders how binding this resolution will be to the new Council.

DeDe feels it is a good idea to pass a resolution as it gives the City Manager clear direction that this is the will of the Council and he would like to see it clarified even further by separating overtime from regular hours, seconded by Hindle.

Joyal stated the decision has already been made by the court on that issue that details cannot be broken out except for severance pay. Motion was withdrawn.

Lewis is concerned about it being published in the paper.

Hindle stated that it is up to the paper to decide if they want to publish it once it is released and clarified that this list will include city council salary as well.

Perry stated that perhaps there could be a statement that the total amount may contain overtime, etc.

Perry moved to amend the "Be it resolved section" to include "total wages are defined as including base salary, overtime and other compensation", seconded by Mayberry.

Mayor Myers feels it is important to clarify this but also that the police overtime detail work is also a source of revenue to the city and is therefore offset.

Joyal stated it also includes buy down of accrued time which the city is encouraging employees to do in order to get it off the books at a lower rate than would be later. He stated that people should be careful in comparing Dover to other communities and make sure it is "apples to apples".

Mayor Myers gave the example of Manager Joyal's contract as an example of how the total wages amount was inflated due to being compensated for buy down of time which the Council wanted included, but inflated the total amount.

Motion to amend passed on a 9-0 vote.

Main motion as amended passed on a 9-0 roll call vote.

**C. ORDINANCES IN 1<sup>ST</sup> READING**

- 1. Ordinance #20-11/09/05, Chapter 3, Administrative Code, Recreation Department and other housekeeping changes. Sponsored by Mayor Scott Myers, by Request.**

Hindle moved to refer to a public hearing on 12/14/05, seconded by Perry.

Motion passed on a 9-0 vote.

2. Ordinance #21-11/09/05, Chapter 3, Administrative Code, Add Section 3-73, Finance Commission. Sponsored by Councilor Robert Lewis.

Lewis moved to refer to a public hearing on 12/14/05, seconded by Perry.  
Motion passed on an 8-1 vote, DeDe opposed.

**D. COUNCIL CORRESPONDENCE**

1. Wetlands Application – Coheco Falls Associations
2. Letter – Comcast

Hindle moved to accept and place on file #1 and 2, seconded by Mayberry.  
Motion passed on a 9-0 vote.

3. Request for Abatement for Water and Sewer Hookup Fees – Dover Vocational Trust Inc.

Mayberry moved to refer item to 12/14/05 meeting for formal action, seconded by Perry.

Joyal stated that past Councils have denied these request.  
Perry stated that usually this cost would be passed on to the homeowner once sold.  
Keays asked what the fees are.  
Doug Steele stated \$800.00 water hookup and \$1,100 for Sewer.

Motion passed on a 9-0 vote.

**13. COUNCIL MATTERS OF INTEREST**

DeDe stated that some of the items at the end of the agenda should have been further up as he feels the viewing audience stops watching after 9:00 p.m..

Mayor Myers stated that he was supposed to make 2 appointments during is Mayor's Report and would like to do so now.

He is reappointing Walter Colby to the Sky Haven Airport Committee for a 3 year term and Frank Torr to the Strafford Regional Planning Commission.

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

Trefethen stated that the newspaper has reported on over expenditures during the campaign and wonders does this just disappear or will the rules be upheld.

Joyal stated that it can be pursued according to Sections 137-5 and 137-6 of the City Code.

**14. ADJOURN**

Hindle moved to adjourn at 9:50 p.m., seconded and passed unanimously.

**Valerie A. French  
Deputy City Clerk**