



CITY OF DOVER

CITY COUNCIL - MINUTES

Reconvene

Meeting Type: Organizational Meeting
Meeting Location: City Managers Office - 288 Central Avenue, Dover, NH 03820
Meeting Date: Monday, January 28, 2008
Meeting Time: 6:00 pm

Strike through items completed

1. ~~OATH OF OFFICE~~
2. ~~ELECTION OF DEPUTY MAYOR~~
3. ~~COMMITTEE APPOINTMENTS~~
4. ~~2008-2009 COUNCIL RULES AND REGULATIONS~~
5. ~~ADJOURN~~

Third Organizational meeting was called to order at 6:05 pm. Present: Mayor Myers, Councilors: DeDe, Trefethen, Scott, Cheney, Weston, Callaghan and McCusker. Also present were the City Manager and the City Attorney. Myers asked if there are any questions and what has been done and what was adopted. Callaghan stated that he reconsidered the discussion of the 1/14 minutes and whether or not council rules were adopted. Myers stated that we need a motion to suspend the rules. Callaghan made the motion seconded by Scott which passed on an 8/0 roll call vote. Callaghan stated that the discussion was what actually happened regarding the first meeting as rules of present council with 1 amendment being adopted. He has an email from DeDe that agrees with his position. DeDe replied not really. Callaghan stated that in addition, although I remained silent I believe we continue under old council rules until new rules adopted at the end. DeDe suggested they ask the Attorney. Attorney replied that what had been stated previously was consistent with the minutes. The 1/7 minutes showed rules adopted with 1 change. On 1/14 the Mayor made an announcement that had happened on and asked for comment. None was offered. Myers stated that on the 7th during the organizational meeting we had the oath and attempted to elect a Deputy Mayor. Then we started on the rules which were not completed except for rule 6. We needed to adopt rules to go upstairs. We passed 06/07 with amendment 6. By adopting rules we did not give up the simple majority for the continued meeting on 1/14. Nothing preliminarily agreed to on 1/14 was adopted so still pending council rules as adopted. Callaghan asked did we make any changes to 06/07 rules? My impression was changes were not adopted. This is a matter of recollection. I am not the only one who thinks that it happened this way. DeDe replied that he contacted the Attorney for clearer understanding. Rule 6 was adjusted and called to a recess so that we could reconvene. Trefethen stated that his recollection agrees with the Mayors. The sentence highlighted in the minutes is a quick summary. Nothing binding-just a statement of what occurred. It is clear we recessed again. Callaghan said that the difficulty he has is that an amendment was made. He does not doubt the attorney but they discussed a lot of these issues. We did not want to adjourn having made changes. There is 1 time to change rules with a simple majority and once adopted it takes a 2/3 majority. We did not adjourn so we did not make an amendment. Weston replied that she called the contact about clarification. When are changes adopted and when do they go into effect? As each is voted on or as a whole? Myers stated ultimately when you adopt as amended-06/07 as amended. Very sure that we aren't using up our simple majority. We needed to adopt rules



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to go into meeting-it would not be our formal adoption. Do you think we now need a 2/3 majority? Callaghan felt that someone could challenge. We are well intentioned for keeping simple majority however when we adopted rules with amendments we took it away. Mayor stated we do have minutes and proceeded to read the draft minutes. Cheney stated that draft rules are still on the table. Any changes can be made and then adopted. Myers replied that we already voted on rules for section 6/ Cheney stated I did vote for changes but it is still on the table. Mayor said that the Council would need to agree –only change being section 6. We could vote to adopt rules as amended as we did before with a simple majority. Trefethen stated that regardless of the interpretation- because we have not adopted rules we can still change # 6. If we are changing 3 words then I am all for it to move things along. Callaghan I don't find the language where we adopted in the 1/7 minutes-adopted rules simple majority. DeDe said there is not a difference between approved and adopted. We can beat this horse or move on; just what do you want to do. Callaghan replied I would like to strike with "1 amendment" from the 1/14 minutes. Trefethen seconded. Vote passed 7/1, Myers opposed.

Cheney had additions to rules. Section 14A add on City Website. The Mayor felt it is posted with the Agenda because it is not stand alone, however Cheney wanted it in the rules as a housekeeping measure. Motion passed 8/0.

Cheney wanted to add a new section- 15-

Motion by Cheney seconded by DeDe. Cheney explained that section would discuss the handling of labor contracts and information to the Council concerning same. State law dictates the timeframe however she would like it go get to the Council even sooner than State law dictates. She requested that the Councilors get the contracts quickly and it is not placed on the agenda for 2 weeks thus giving the Council time to read the contract and come up with questions. DeDe explained that the Council can not discuss specific provisions in the contract- only the money and felt that they City Attorney needs to look at this. Discussion ensued over the language of the change including the use of the term business days. It was felt by Trefethen that 2 business days to have the documents delivered was an extremely short timeline. He also reminded everyone that the Council does not actually get the contract- just the list of changes. It was recommended that the language be changed. It was discussed that they normally would not get a contract that evening and vote on it. It happened recently however that was the 6th contract done with similar language. The decision was made to withdraw the rule change

The next rule change involved having agendas and paperwork delivered to the Council if not ready by the Friday noon deadline. Cheney felt that time was needed to review materials. Trefethen stated that he was not sure he could support because sometimes it is just a 1 page document and he also had concerns about canceling meetings if some minor paperwork was not handed out timely. Scott stated that he has heard criticism from residents that the Council spends money too fast with out proper review. The mayor reminded everyone that if too much information was late then a workshop could be tabled and rules could be suspended to allow in late documents during a regular meeting.



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Everyone was in agreement that the goal is to get information out for review and that a reasonable attempt should be made. This rule change was withdrawn.

Callaghan then presented his rule change recommendations. He started by wanting to explain the intent of his changes,. It was not to show a lack of trust in city manager. The intent is to show citizens a new Council and send the message out. Motion by Callaghan to amend section 2 seconded by DeDe, Callaghan recommended a question and answer session on third Wednesdays. The current citizen's forum there is no discussion. DeDe felt that once a quarter might be acceptable however residents can call/email City Manager and Councilors. They will get a response. Further discussion centered on the logistics of how the questions would be answered and the accuracy of an unprepared response. There were also other alternatives offered including coffees, speak outs, better communication of current process. Motion to change to quarterly by DeDe seconded by Scott. It was also suggested that this could be a goal- not a rule. Vote failed 3/5 with Callaghan, Cheney and Scott in favor.

Next rule change by Callaghan was to meet every 3 months to evaluate City Managers performance without him in attendance. Motion to amend by Callaghan seconded by Scott. DeDe stated that this violates charter as the City Manager has the right to be there and to have it be public. The City Manager has agreed in the past to make it a nonpublic session and released minutes afterwards. Scott suggested that the charter could be amended at the next election. The City Attorney mentioned that RSA 91A:3 describes nonpublic session. He also explained that contractually the City Manager is supposed to be there for these matters. Callaghan withdrew the change.

Callaghan then made a motion to change seating arrangement seconded by Weston. He suggested that a lottery be used for searing to mix things up and help increase familiarity with all counselors. Also, the City Manager should change seating as he is an advisor- not a member of the Council. He felt that some citizens who are unfamiliar with the Council might think the City Manager has more authority then he actually does. This would help to further the image that the council is in charge. DeDe felt that a lottery would have no impact and would actually make it more difficult to ask questions of the City Manager. McCusker felt that the name tags were sufficient. Does not believe seating was an issue. It was also discussed that people may have a preference for certain seating for personal reasons. Vote failed 1/7 with Callaghan in favor.

The next rule change concerned the Mayor and Deputy Mayor setting the agenda. Motion by Callaghan seconded by DeDe. Callaghan felt that City Manager should be there as an advisor. Mayor explained that City Manager input is needed because otherwise something might be missed. Further discussion concerned that role of the City Manager as an advisor and his functions within the City.. Weston stated even as an advisor he should be consulted on these types of issues however the Council makes the final determination. Callaghan reiterated that this is not about the City Manager- it is about the relationship between the City Manager and the Council. By allowing him the time to do his job he will become even



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more effective. Scott described this relationship as legislative vs. executive. McCusker felt that City Manager position should not be removed from every rule. Cheney stated that the City Manager is not elected and these are Council rules. Vote failed 4/4 with MCCusker,Myers, DeDe and Trefethen opposed.

The next discussion was C3-3 which discusses that role of Deputy Mayor. Callaghan made the motion seconded by Scott. The Mayor stated that the Deputy Mayor serves as acting Mayor but does not get extra votes or weight. Some believed it was redundant to discuss this however Callaghan stated that if you discuss temporary chair then the process needs to be defined. Vote Failed 1/7 with Callaghan in favor.

Next motion by Callaghan seconded by Scott was how to choose a chair if the Mayor and Deputy Mayor are both absent. Callaghan suggested alphabetically. The Mayor did not feel this would work as a new Councilor could end up running the first meeting. It was also discussed that the Councilor could turn it down. The City Attorney did not like the use of the word Acting as it creates a new position. Callaghan withdrew motion

The next motion by Callaghan seconded by Scott concerned the City Attorney being Seconded to the Council and shared. Callaghan felt that this would allow the Attorney to work for the Council on a confidential basis. The City Manager would need to approve this. Some Councilors were concerned that the Council relies on the Attorney and his loyalty is too the City Manager. DeDe disagreed stating that the City Attorney is Counsel for the corporation. Trefethen stated that the Charter Commission discussed this at length and did not make it a recommendation to the residents and it would be a violation of the Charter without City Manager approval. It a councilor voted for this then Trefethen would contact the ethic Committee. The Mayor stated that he researched this and the only City was Keene that did this and it was specifically in their charter.

The City Attorney stated that he had a conflict with this motion so he could not answer questions related to this. It was recommended that a charter amendment be proposed for this to take place. Discussions continued concerning the possibility of a charter violation,confidentiality of attorney consultation and the notification of the Ethics Board. Callaghan then made a motion to amend the rule to begin with with permission of City Manager seconded by Scott. It was questioned if that would remove the violation. The Attorney had removed himself from this discussion. It was again suggested that this be considered as a charter change in 2010. Motion failed 3/5 with Callaghan,Scott and Cheney in favor of amendment. Callaghan then withdrew.

The next rule change involved continuing discussion of RS 48:3 and the types of government. In some forms of government the Mayor performs functions that the City Manager performs in ours. City Manager hires and fires all employees. The City Council is the governing body but the City Manager is responsible for administrative affairs. The City Clerk is an employee of the City Manager. Mayor is more of a ceremonial figure head. The Attorney explained that it is in the charter that the City Manager hires and fires all employees. This does not stop the clerk from record keeping. The attorney went on to



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explain that there are lots of statutory rules around the function of clerk but the clerk functions is only for the meetings. Callaghan amended language regarding minutes seconded by Scott. Trefethen thought a rule was being proposed to fix a problem that would be resolved with staff training and that it could be met with a goal. Callaghan felt that a recording would assist in requirement for getting minutes done in time. ADD language from RICK. Passed on a 8/0 vote

The next rule change was order of business. Callaghan suggested that the order of the agenda change to make it more advantageous to the public. If the Citizens forum came after the reports they could stimulate thoughts and ask questions. The issue discussed is this would prevent the City Manager from answering some issues with his report as currently done. Cheney added a friendly amendment –quick response to Citizens Forum seconded by Scott. Discussion continued about whether citizens would feel frustrated that no answers were given and it could be perceived that City Council has last word. Follow up needs to occur. New motion: Citizens Forum wrap up by Mayor and City Manager. Vote failed 4/4 with Myers, McCusker, DeDe and Trefethen opposed. Motion to put City Manager and Mayor report before Citizen Forum failed 4/4 with McCusker, DeDe, Myers and Trefethen opposed.

Scott made a motion to adjourn to a date certain on 2/11 at 6:00 pm in the City Managers Office. Mayor stated that Mondays have been working out for this and that if the Council Chambers are available we can hold the meeting there. Scott preferred that it be in Council Chambers so that it could be televised. Trefethen felt that the format in the City Managers office was more conducive to work. Callaghan wanted it amended to have it in the Chambers and televised if possible or audio recorded. Vote Failed 4/4 with Myers, McCusker, DeDe and Trefethen opposed. Back to original motion which was 2/11 6:00 pm in City Managers Office made by Myers and seconded by McCusker. Callaghan amended to audio recorded and DeDe seconded. Passed 8/0. Full motion passed 8/0 and meeting ended at 10:45.