



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, June 11, 2008**
Meeting Time: **7:00pm**

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

Councilor McCusker led the Pledge of Allegiance.

3. ROLL CALL

Present: Mayor Myers, Councilors Callaghan, Cheney, Dede, McCusker, Scott, Trefethen, Weston. Also Present: City Manager Joyal, City Attorney Krans, and City Clerk Lavertu. Councilor Weston filled in as Deputy Mayor.

4. PROCLAMATIONS – AWARDS

5. APPROVAL OF AGENDA

Mayor Myers asked if the Council had any changes they wanted to make to the agenda.

Councilor Callaghan asked to remove Item 12.C.1.

Mayor Myers asked for a motion to accept the agenda with the change.

Councilor Callaghan made a motion to accept agenda with change; seconded by Councilor McCusker.

Vote: 8/0.

6. CITIZEN'S FORUM

Citizens are invited to speak on any issue pertaining to the business of the City of Dover. Statements shall be limited to five minutes.

Ronald Huml, 199 Mast Road: He referred to the Dover newspaper article from June 5, 2008 regarding the tax rate going up 3.1%. He said the tax cap was 2.8%, and he didn't understand why it was 3.1%. He said the millage rate was \$19.63 and now it is \$20.24. He said it would take a 2/3 majority vote to accept the 3.1% increase, and at last week's vote to pass the budget it was only 5 out of eight, 62%. He asked the Council if the newspaper was wrong.

Mayor Myers said the City Manager will address this issue during the City Manager's Report.

Otis Perry, 91 Court Street, Chairman of the McConnell Center Advisory Committee: He said the Committee accepted an Award of Merit from Planned New Hampshire. The award of merit recognized the design, the community nature of the project, and the reuse of an architecturally significant structure. He said he wanted to give the Council the status report for the McConnell Center. He said it is now 98% rented out. He said there are two separate small rooms left, and he feels they will be hard to rent. He said the 2008 rent for non-city agencies is \$12.00 per square foot and pays for operating expenses, debt services, and a small amount which goes into a capital reserve fund. He said that all of the agencies paying this rent are non-profit community service agencies, with the exception of one State agency, providing services



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and opportunities to the community. He said the City agencies also contribute to the operation of the building, but do not pay directly into the debt service or capital reserve fund. He said the success of the project is due to several members of the community.

Eric Kelsey, 26 Hemlock Forest, Member of the Energy Advisory Committee, Elected Chair and Founder for the Dover Cassily Community Garden: He said he supported the Dover Sustainability Committee to becoming an official committee. He spoke on the reasons for the Council to approve the resolution to allow the community garden stewards to use the Cassily Conservation property for local agricultural purposes. He said the mission and goals of the Dover Cassily Community Garden are to strengthen the community, and to educate the public on gardens, plants, and local ecosystems. He said they want to grow healthy foods using organic methods, donate them to food pantries and sell some to the public. He said community gardens bring communities together and can make communities a tightly knit network, and more resilient during times of need. He said growing foods locally is one of the best ways to reduce carbon emissions. He said it all began in the summer of 2007, when the Open Lands Committee suggested the Cassily property be used as a community garden. He said a group was formed in September and has grown over the winter to more than 40 people. He said that during the April Conservation Committee meeting some neighbors came and expressed their concerns over the garden. The Conservation Committee decided to bring these concerns before the City Council. He expressed the group's regret in not contacting the neighbors early on in the process, and that they have apologized for it. He said they invited all twelve neighbors to a meeting to introduce themselves, and only four showed up. He said Councilor Callaghan, Marcia Colbath, and Steve Bird also attended. He said it was a great meeting, and was a great example of two groups meeting and coming together to work something out. He said they decided to write a memo of understanding, a non-legal document, to broadly outline the scope of the garden and how it will be maintained. He said there is no formal process for this and appreciated Councilor Callaghan's guidance. He asked the Council for the approval of the Resolution for this.

Bridget Farmer, 6 Fisher Street: She highlighted the benefits that the community garden will bring to Dover. She said it will bring feelings of unity, a sense of belonging, and respect for the environment by encouraging neighbors and friends to come out together. She said this kind of teamwork is invaluable and will reinforce the connections among the people of Dover and the City itself. She said it would provide a valuable learning tool for the young and old who are interested in gardening, food production, and working outside.

Danielle Alley, 25 East Concord Street, Treasurer, Dover Cassily Community Garden, Ex-Chair for Seacoast Sierra Club: She said that in May of 2006 the Council pledged to join the Cities for Climate Protection Campaign, also known as the Cool Cities Program. She urged the Council to support the resolution before them tonight.

Julie Kelsey, 26 Hemlock Forest: She said the community garden is an amazing opportunity for the City of Dover. She said the community garden was an important solution to many of the problems we face today: global warming, peak oil, and helping with the lack of community that we have today. She said more importantly it teaches people how to grow food.



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Regan Gentner, 31 Grove Street: She said she hoped the Council supported the community garden.

Donald Medbery, 3 Covered Bridge Lane: He referred to the article in the June 4, 2008 issue of Foster's Daily Democrat. He said it announced that the City of Dover is being sued by the US Government and the State of New Hampshire for the Tolend Superfund Site not being cleaned up on time. He said the article referred to a 128-page consent decree, which was signed by all the parties. He said City Manager Joyal signed on September 27, 2007. He said the decree was executed by the Department of Justice on May 13, 2008. The decree allows for a 30-day public comment period from May 13, 2008 to June 13, 2008, and he said the people of Dover have not been invited to comment publicly. He asked the City Manager, the Mayor, and the Councilors, when the people of Dover were going to be invited. He asked how they could comment publicly when they have not been notified publicly. He said one current Councilor was excited by the prospect of this site, when they thought they could generate millions of dollars in the reopening of the site. He spoke of the secret contract that was signed by Dean Peschel, the City's Environmental Officer. He said it was kept secret for six months. He said it was a noncompeting contract, which was probably illegal. He referred to a March 1, 2006 article in Foster's Daily Democrat where they said the landfill would be reopening, one day after the deadline to file for a tax abatement on property. He said property values sunk and citizens were taken care of nicely by waiting until that day to announce it, when they had plenty of information for a few years that this was going on. He said the City has to obey the government consent decree. He asked the City Manager, Mayor, and Council, how many dollars it was going to cost the City now. He said the City could have settled for \$1 million in 1991. He said there was no reason to keep the residents in the dark, and he'll go before the judge to get another 30 days to get some public comment on this. He said he wanted some answers.

Mayor Myers said they would address that during the City Manager's Report as well. Mayor Myers, seeing no one else wishing to speak, closed the Citizen's Forum.

7. PUBLIC HEARINGS

A. RESOLUTIONS

- 1. RESOLUTION RE: FISCAL YEAR 2008 BUDGET AMENDMENT #1 (PER CITY CHARTER C6-6 THIS REQUIRES A 2/3 FAVORABLE VOTE)**
SPONSORED BY MAYOR MYERS BY REQUEST

John O'Connor, Superintendent: He said he was looking for support on the Resolution. He said he could answer any questions or concerns the Council may have.

Mayor Myers, seeing no one else wishing to speak, closed the Public Hearing.

- 2. RESOLUTION RE: ECONOMIC DEVELOPMENT SERVICES AGREEMENT**
SPONSORED BY MAYOR MYERS



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Edward Bleiler, 28 Isaac Lucas Circle: He said this was a major decision that the Council had to make, as representatives of the taxpayers who will come up with the cash to fill this position. He said it was necessary to have a full and complete job description. He said the City needed to have a complete inventory of the property that we are trying to market, as well as an inventory of businesses that we are trying to keep within the City. He asked if there was a written cost/benefit analysis available for review. He said there are many questions that need to be answered before any action is taken. He wanted to know who the Economic Director answers to, the City Manager and the Council, or to DBIDA, which is made up of volunteers who are representatives of the taxpayers. He asked who was responsible for liability. Will DBIDA be required to get the Director workman's compensation and health insurance? He asked if the person will be required to report monthly or quarterly to the Council. He said the \$80,000 was set aside for salary. He wanted to know what happens to the other \$50,000. What happens to travel expenses, a clerk, printing expenses? He asked if there was a guarantee that the City Manager will not come back for more money, or if this is the tip of the iceberg. He said the Resolution should die on the vine.

Ray Bardwell, 199 Spur Road: He said he concurred with some of Mr. Bleiler's comments, but wanted to take a different tack. He said three years ago at a Public Hearing the Economic Director, Dover Main Street and a commercial real estate person were expounding on their contact with businesses that wanted to move to Dover. He felt they were all doing the same job, which he thought was great, but also meant duplication of work. He spoke on the economy and seeing all the vacancies everywhere. He said he is not against an Economic Development person, but he thinks Dover needs a business person who would be a coordinator that would inquire into the Dover's existing business needs and wants. He said the Council should control the position. He suggested the City get a consulting firm with specific instructions on what the City wants. He said he would take the job for \$60,000 and \$20,000 for expenses. He said that large companies looking to move have their own economic development departments. They would come to the City and talk to the Planning Department, the Chamber of Commerce, and Dover Main Street. He said again that the Council should control the position and he hoped they felt the same way.

Tim Dargin, 5 Hawthorn Road, Chairman of Dover Business Industrial Development Authority (DBIDA): He referred the Council to the email he sent a few weeks ago. He spoke on the success of Enterprise Park and how the Economic Developer brought in most of the businesses at that time. He said he is strongly in favor of hiring an Economic Director. He said that DBIDA built a strategic plan, held an economic summit in February, had a workshop last April, and felt there was strong support. He said the Resolution as it currently stands has a lot of questions, and he felt the Council needed a workshop to handle all the questions. He said that DBIDA took a vote that afternoon and voted to table the Resolution until after a workshop. He said it was too important a position. He said if the position is funded either through DBIDA, or



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through the Council reporting to the City Manager is fine with him. He asked the Council to consider pulling the Resolution and it having a workshop.

Mayor Myers, seeing no one else wishing to speak, closed the Public Hearing.

3. RESOLUTION RE: DISCONTINUANCE OF HANSON WAY

SPONSORED BY MAYOR MYERS BY REQUEST

William Colbath, 82 Spruce Lane: He said his business property abuts Hanson Way. He passed out a map and explained it to the Council. He said Hanson Way gives access to the rear of the properties that are there. It was also the only dry access to Mr. Reilly's property, which has wetlands in the rear and center of the property. He said the second resolution attached is to abandon the piece that the City currently owns. The language of it says that it is a worthless piece of property and therefore can be given away to the abutters. He said when he went to DBIDA to discuss getting his half they asked him to get it appraised. Two years ago it was worth \$20,000 and DBIDA asked for payment. He said that resolution was not correctly done. He told the Council that the two sections in yellow should be abandoned, but felt the section in red should be kept. He said it was only a 300 feet piece and an important access.

Mayor Myers, seeing no one else wishing to speak, closed the Public Hearing.

B. ORDINANCES

1. ORDINANCE RE: CHAPTER 3 ADMINISTRATIVE CODE - SUSTAINABILITY COMMISSION

SPONSORED BY MAYOR MYERS BY REQUEST

Eric Steltzer, 103 Henry Law Avenue, Chairperson of the former Dover Energy Advisory Committee: He wanted to reiterate the support the Committee has for this Resolution.

Elizabeth Goldman, 44 Rutland Street, Volunteer of the former Dover Energy Advisory Committee: She said it was in Dover's best interest to have this commission.

Dona Layton, 161 Back River Road, Member of the former Dover Energy Advisory Committee: She hoped the Council votes to make the Sustainability Commission a permanent commission.

Mayor Myers, seeing no one else wishing to speak, closed the Public Hearing.

2. ORDINANCE RE: CHAPTER 147- SEWERS

SPONSORED BY MAYOR MYERS BY REQUEST

Mayor Myers, seeing no one wishing to speak, closed the Public Hearing.



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3. ORDINANCE RE: CHAPTER 166-53 - VEHICLES AND TRAFFIC

SPONSORED BY COUNCILOR WESTON AND COUNCILOR DEDE

Jan Lozo, 7 Atlantic Avenue: He asked for the help of the Council to deter the heavy truck traffic that goes down Atlantic Avenue. He said it is a residential area, and have quite a few families with children. The children have to walk on the road to get to the bus stop. He referred the Council to the pictures he brought of the road. He said he wasn't saying that all the trucks drove fast, but that trucks going in both directions left no room for people to walk. He is concerned with the safety of the people walking. He said there are no sidewalks, but he isn't sure that sidewalks are the answer. He said the road is not in good shape and is on the list to be reconstructed. He mentioned the two water main breaks, and wondered if it was from the heavy truck traffic. He said the traffic should be sent to Oak Street.

Tara Johnson, 24 Atlantic Avenue: She wanted to echo everything Mr. Lozo said. She said the suggestion they've made, with the support of Councilors Weston and Dede, is to reroute the traffic to Oak Street, which brings them to a traffic light and a safer way to get onto Portland Avenue. She mentioned the petition she gave to Councilor Weston, which shows they have the full support from the neighbors for this Resolution. She asked for the Council's support in remedying this situation.

Parks Christenbury, 98 Cocheco Street: He said he's lived in the area for 50 years. He said when he was younger they could play softball and not see a car. He said in the last 15 years there has been a lot of development and it has attracted people to come to the waterfront area. He said there is a restaurant at the end of Cocheco Street that is one of the most successful in Dover. They don't have sidewalks in the area and people are still coming. He said there was no one here that wants to put any local truckers out of business. There have been attempts made to restrict truck traffic in that area, and it has been shot down because local truckers came before the Council and said it would hurt their business. He said they are not here now, because he felt the local truckers knew the situation was bad. He thanked Councilors Weston and Dede for bringing this issue up again. He said in Eliot there have been a lot of changes, including the Eliot Recycling and Ameritech Trucking, and there are 18-wheelers going through the neighborhood. He said there just is not room on these roads to support this kind of truck traffic. He said last year a driver lost control of his truck and hit his wife's car, which was parked 10 feet off the road. He said there have been a number of serious accidents, in the area past the horse barn, and one fatal one. He said the proposal before the Council isn't perfect, but is a significant step. He said the final step is to listen to Bruce Woodruff, of the Planning Department, and institute a plan for all trucking.

Donald Boardman, 34 Atlantic Avenue: He wanted to thank Councilors Weston and Dede for finally bringing this Resolution before the Council. He said he has lived on Atlantic Avenue for 27 years. He said they originally asked for sidewalks. Lacking that, they asked for some traffic control. Lacking that, he asked about fixing the street. He



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said he has a screened porch and cannot enjoy it because of the noise of the trucks. He said to reroute the traffic to Oak Street because there are no houses on Oak Street, no kids on Oak Street, and no danger on Oak Street. He asked the Council to get them off his streets.

Kathleen Beede, 35 Atlantic Avenue: She said she has two young children and she is frightened to be in the front yard, even to go to the car. She drives her kids to the park instead of walking there with a stroller. She said this is a problem.

Louise Janelle, 32 Atlantic Avenue: She said she doesn't have any children, but as an elementary school counselor she can understand. She said she is stressed with the rumble and noise of these trucks. She said she knew the Council cares about the children and the problem they are having.

Mayor Myers, seeing no one else wishing to speak, closed the Public Hearing.

8. CITY MANAGER'S REPORT

City Manager Joyal first wanted to follow up on a few questions from the Citizen's Forum. He spoke on the tax cap. He said the 2.8% ties back to the national all-city average CPI. He said it does not necessarily mean that is what the tax rate is going to be. He said when you look at the tax cap formula, you first start with last year's tax levy, and you increase that by the national CPI, which was 2.8%. In addition to that, there is also a calculation that takes last year's tax rate and multiplies that by the net new taxable construction value. The sum of those two numbers is the amount the tax levy can increase. The tax levy is the total amount of taxes that are collected by the City. The tax rate is really meaningless because it is just a function of what the assessed value is of the City, and how that tax levy is going to be distributed among different people. He said once you know the tax levy that is allowed by that tax cap formula, you then need to go back and look at the assessed value of the city, subtract out the exemptions to values, veterans' credit, and you get the net assessed value. He said you take the net assessed value and divide that by a thousand, divide that into the next tax levy, and that is the tax rate. He said there were a few reasons why it came out to 3.1%. He said they first looked at the changes in the assessed value. The City is anticipating some areas of decreases in assessed value because of market changes in the past year. He said if the assessed value comes down, the tax rate goes up. It doesn't mean the City is charging more taxes, but means a different tax rate is given to collect the same amount.

City Manager Joyal spoke on the comments regarding the Tolend Landfill Super Fund Site. He referred the Council to page 8 of the minutes from the City Council's May 28, 2008 meeting, which the Council will be adopting this evening. He read from the Minutes for the Council. He said he mentioned this then to make sure the public and the Council were informed. He said there has been workshops held on this issue. He said there were some dates mentioned that are not accurate. He said the EPA is controlling this process and not the City of Dover. They have drafted a consent decree and have submitted it to the Department of Justice. He said there is a notice published in the Federal Register, which is the responsibility of the EPA. The Federal Register says May 23, 2008. He said this document was available on the EPA website.



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He said it essentially says that the Department of Justice will see for a period of 30 days, from the date of this publication, comments relating to the proposed second consent decree. He said comments should be addressed to the Assistant Attorney General in the Environment and Natural Resources Division. He said the first notice the staff had was on Friday, May 24, 2008 that this consent decree had been published for public comment. He alerted the public and the Council on Wednesday, May 28, 2008. He said the public comment period does not end June 13, 2008, but June 23, 2008.

City Manager Joyal said he wanted to make the Council aware that the School Department and City Departments are proceeding ahead with the issuance of an RFP for an energy service contract. He said they hope to come to the Council with a selected vendor, which will present a workshop in July for possible energy-saving measures for all of the City's facilities. He said he expected the Sustainability Commission, if it is established, to be involved in this process.

Mayor Myers asked the Council for questions or comments on the City Manager's Report.

Councilor Cheney asked for clarification on the tax rate change from \$19.63 last year to the \$20.24 quoted for this year. She asked if the reason for the difference being 3.1% is partially because of the decrease of some assessed values.

City Manager Joyal said partially, yes.

Councilor Cheney said that makes up for the difference. The legislation that was passed did not say your tax bill will be capped at this.

City Manager Joyal said unfortunately that is one of the things that is going to be confusing to people. When they voted for the tax cap they assumed the rate would only go up by what the CPI number is. He said there is a formula that makes it much more convoluted than that. He said the tax cap affects the tax levy, the total amount the City can collect, and does not control the tax rate or assessed value. He also wanted to mention to the Council and the public that what the tax rate reflected in the budget documents is an estimate. He said the City does not set the tax rate. It is set by the New Hampshire Department of Administration in September or October.

Councilor Cheney said she wanted to comment on the Tolend Landfill. She said she went to the Department of Justice's website and printed out the 128-page remediation for the landfill. She said that on May 28, 2008 she asked for an update as to what was going on and what the public hearings are. She said the City has until June 23, 2008. She mentioned that if anyone wants the website for emailing public comments, she would provide it via email. She referred to the City Manager's Report where it said that a workshop had been scheduled for the second week in June to discuss the landfill project. She wanted to know if the City Manager could let the Council know when that meeting is and if they could attend.

City Manager Joyal said he would have to get back to her on that date.

Councilor Cheney asked if the Council could have a small presentation by Dean Peschel, Environmental Projects Manager, on what is included in the 128 pages.

City Manager Joyal said he could replay the Workshop on Channel 22 to save time.

Councilor Cheney said if the Council approved, to replay the workshop was a good idea.

Mayor Myers wanted to clarify that this was the final update the Council received in what was being submitted to DES, which was accepted and is going out for public commentary. He asked if there was anything different presented to EPA other than what was presented that evening.



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City Manager Joyal said our position was presented that evening. He said the EPA is going to take their own position on issues. He said the consent decree as proposed reflects what was discussed at that workshop.

Mayor Myers asked for Council consensus to ask the City Manager to replay the Workshop. After getting consensus, he asked the City Manager to replay the workshop.

Councilor Cheney said she spoke with Mr. Peschel. He told her that after digging a few wells, the good news is that the plume seems to be moving in a southeasterly direction. She says it has started and all the news seems to be very good.

City Manager Joyal said they still haven't heard anything on the grant for the Teen Center.

Councilor Weston asked for an update on the Tolend Landfill.

City Manager Joyal said there are a few things that are happening. First, there is a pilot test to check on the pump and treat system. Second, there are leaves being brought up to be composted. Third, some additional well drilling has started or will started be soon.

Councilor Callaghan said he had a few questions. First, he asked for an update on the crosswalk and bus stop issues that Mr. Jordan spoke of at the last meeting.

City Manager Joyal said Coast did order the panels. The City staff did agree to install them on the shelter. He asked Bruce Woodruff, City Planner, to give an update on these issues.

Mr. Woodruff said the glass panels for the bus stop shelters have come in at Coast. The City plans to pick them up tomorrow, June 12, 2008, and they will be installed by the end of the week. He said the benches have been located and they will be installed subsequent to that. He said there will also be an information board installed at the City Hall bus stop. He said the crosswalk issue has been referred to the Transportation Advisory Committee, TAC, and will be on their agenda for their June 23, 2008 meeting.

Councilor Callaghan spoke on the Berry Brook watershed management report. He said he didn't want the City to overlook Free Trade Inc. as contributors to the problem.

City Manager Joyal said he will just have the wording changed from residents to property owners.

Councilor Scott referred to the building permit issue, and the amount of \$770,000 for a company or organization called Preservation of Afforda on Chestnut Street. He asked for clarification.

City Manager Joyal said it was the property owner and they are making renovations. He asked Mr. Woodruff to address this issue.

Mr. Woodruff said it was the owner of the property.

Councilor Scott asked if this will be added to the tax roll, or if it is a non-profit.

City Manager Joyal said he didn't know if that property is profit or non-profit.

Councilor Weston made a motion to accept the City Manager's Report; seconded by Councilor Callaghan.

Vote: 8/0.

9. MINUTES

- A. MINUTES FROM – MAY 21, 2008 SPECIAL MEETING
- B. MINUTES FROM – MAY 21, 2008 WORKSHOP
- C. MINUTES FROM – MAY 28, 2008 REGULAR MEETING

Councilor Weston made a motion to accept the Minutes; seconded by Councilor Dede.



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10. MAYOR'S REPORT

Mayor Myers said his work with other mayors on the Government Affairs Committee has finished. He said the Council should be receiving reports on the policy adoption recommendations for the Local Government Center soon, and they will be having a workshop to discuss it in August. He attended the ribbon cutting for Margarita's.

Councilor Weston made a motion to accept the Mayor's Report; seconded by Councilor Trefethen.

Vote: 8/0.

11. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2ND READING

1. ORDINANCE RE: CHAPTER 3 ADMINISTRATIVE CODE - SUSTAINABILITY COMMISSION SPONSORED BY MAYOR MYERS BY REQUEST

Councilor Weston moved for its adoption; seconded by Councilor Dede. Councilor Trefethen said he would not be voting for this ordinance. He said he did not vote for the creation of the Energy Commission either. He felt the idea of a group of citizens advising the City on ideas to save money is good, but feared it would go beyond that and morph into other aspects that would be more political. He said the Energy Commission has already gone way beyond what was approved. He said this has far reaching ramifications for the City from the standpoint of an appointed citizens commission now having input and potentially offer delays, obstacles and roadblocks not just to the city's property, but to private property as well. He said it doesn't say that in the ordinance, but the comments that have been made show him that is the direction they are going to go.

Councilor Scott said he agreed with Councilor Trefethen. He is pleased that the City has people interested in saving energy, but felt this commission would be overkill. He said he would be voting no.

Councilor Cheney said she had a hard time with this ordinance. She said when this came up on April 9, 2008 she had challenged the wording. She spoke on the changes of the makeup of the commission. She said the wording is vague and strong. She said she agreed with Councilor Trefethen. She felt the Council should take a little more time spent in understanding why the City needs a commission at this point, and what the differences would be. She said she does appreciate their efforts, but she won't be supporting this tonight.

Councilor Callaghan said he wouldn't be supporting this tonight. He said Section C is unleashing a lot of power and has unclear limits. He wanted to know if the people on this commission have the qualifications.

Councilor Dede said the proposals don't give authority, but create strictly an advisory authority. He said it was vague about what they will be involved in, but so is the topic.



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Other Boards and Commissions may ask them to research proposals. He said the rules they had to operate under would have to be approved by the Council. He said the City needed to have a sustainable energy program. He spoke of other energy programs in the world. He felt it was an erroneous assumption by the Council to think there is too much authority being given to this commission. He felt the Council ought to give this commission a chance. He said he was voting for it.

Councilor McCusker said he agreed with Councilor Dede. He felt the Council ought to give this commission a chance. He said he supported this ordinance. He wanted to find out what they had to offer and reap the benefits.

Councilor Weston said she understood what the commission wants to achieve. She mentioned the City Manager's comments about the Energy Service contract that is coming to the Council. She felt it sounded like a duplication of services, and asked for an explanation of the differences.

City Manager Joyal said the contract involves a company making improvements: efficient furnaces, lights, water savings devices, etc. He said this company will guarantee the amount of savings to pay for the improvements. He said it was a team of professionals. He said the energy advisory commission would be the sounding board that is in tune with current issues to generate policies or new procedures. He said they will not have any power except to advise and educate.

Mayor Myers said the opportunity to have the advice from citizens who have some expertise in this makes a lot of sense. He said the Council would not be bound by anything. He said he was in support of this ordinance.

Councilor Trefethen said he agreed the country needed to get serious about this issue. He discussed how people, with the high price of oil, are now willing to conserve energy. He referred to C.1. of the Ordinance. He said to think any ordinance in our little community can protect Dover is naïve.

Councilor Cheney said she supported the Energy Advisory Committee in 2006. She said she understands that they want to be more permanent. She asked the City Manager if the \$100,000 the City received in 2006 was going to be used in the Energy Service Contract.

City Manager Joyal asked the Council to wait until the workshop in July on the Energy Service Contract.

Councilor Cheney said that is what she would like as well. She said this still has her support, but she would like the Ordinance's wording changed.

Councilor Dede said when the City changed to smaller cars, the gas emissions were reduced. He said the City has a builder who has built incredible homes with energy saving devices. He said this would be just an advisory commission and hoped Councilor Trefethen would change his mind.

Councilor McCusker told the Council about a t-shirt he had that said "Think globally, but act locally." He said the City will be acting locally, and if others communities do the same, then there will be a global effect. He said that after this discussion he agrees with this commission more than ever. He said the Council should listen to the information this commission will bring to the Council so we can be informed, and we can agree or disagree to it.



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Councilor Callaghan said he does care about the environment, but the language in this ordinance needs to be reworded so the Council knows specifically what the scope is. Mayor Myers said we have committees and boards to help the Council make decisions. He said just because the City may be getting an energy service contract doesn't mean we don't need this commission. He asked the Council if they wanted to table this ordinance to get modifications in the language.

City Manager Joyal suggested it be referred to a third reading.

Councilor Callaghan made a motion to table until July 9, 2008; seconded by Councilor Dede.

Vote: 7/1, Passed. Councilor Trefethen opposed.

2. ORDINANCE RE: CHAPTER 147- SEWERS

SPONSORED BY MAYOR MYERS BY REQUEST

Councilor Weston moved for its adoption; seconded by Councilor Trefethen.

Councilor Callaghan had a few questions. He referred the Council to 147-32.A: Board of Appeal and read it into the record.

City Manager Joyal said the Chairman of the Assessors should be Chairman of the DUC.

City Attorney Krans said it should be 147-31.C instead of 147-32.C. He said these are changes that have been mandated and approved by the EPA and DES. These have already been vetted by federal agencies and the State. He said it was time sensitive in terms of when it should pass. He said the Council has no authority to change this. Councilor Callaghan said this was a decision that affects a possible \$10,000 in fines as provided by 147-48, and could amount to more if an appeal process is started. He felt with this amount of money at risk that the Mayor and City Council should be involved in the process and the final approval. He also referred the Council to 147-1.H. in definition and read it into the record. He asked what Best Managing Practice means, and who was the City's authorized agent in determining whether those practices have been met. City Manager Joyal said Best Managing Practices have been set by the EPA and DES. He said the City has a position that is specifically designated as the agent; Industrial Pretreatment Coordinator.

Mr. Doug Steele, Community Services Director, said it refers to 40CFR, Part 403, Code of Federal Regulations.

Councilor Callaghan asked to have more regulations referenced in the document.

City Manager Joyal said they get their permit from the EPA and there was also oversight by the DES. He said the Clean Water Act Rules come from the Federal Government and are enforced by the State. He said the changes in this Ordinance stem from Federal regulations.

Councilor Callaghan said the only issue he feels strongly about is that the Council should have a final say on any appeals process. He asked, if the Council wanted to insert language that said that the final decision goes to the Council, can that amendment be made and still be acceptable, or would that have to get accepted by the EPA and DES.



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City Manager Joyal said he can't specifically answer to this, but his sense is that an appeal is acceptable, as long as it was done in a fair, consistent, and deliberate fashion. He said he didn't think the Council wanted to get involved in abatement reviews. Councilor Scott said this was something that he felt should be guided by the State, and asked if the City was putting the cart before the horse. He felt that they were trying to do too much here in anticipating what is required. He felt it should be explained in a workshop.

Mr. Steele said the City's Industrial Pretreatment Program has been in existence since 1989. He said the City is required to have this program based on EPA and DES regulations. He said all the Council is doing tonight is updating the existing sewer use ordinance to bring the City in compliance with the regulations listed in 40CFR, Part 403. Councilor Scott asked for a workshop to explain the changes.

Mr. Steele said he personally didn't feel that was necessary. This has already been approved by the DES and EPA.

Mayor Myers asked if all the changes are in strike fashion in this 60 page document, and not a brand new document.

Mr. Steele said yes.

Mayor Myers said 98% of it stays the same.

City Manager Joyal said these are housekeeping changes that the City needs to make to the ordinance in order to be in compliance with the EPA.

Councilor Cheney said she would support this with the changes she referred to.

Mr. Steele said he agreed with what the City Manager said; if this is done in a fair manner, he didn't think the EPA or DES would have a problem with the City changing this particular section.

City Attorney Krans said the standard way for an appeal of a decision is called a tribunal. It needs to be predictable. He understands that it can be changed from the Board of Assessors to the Dover Utility Commissions, but he isn't sure it is necessary.

Mayor Myers said he didn't feel it was the City Council's role to be sitting on the Board of Appeal.

Councilor Callaghan made a motion to amend 147-32.A to change the Chairman to the Board of Assessors to Chairman of the Dover Utilities Commission; seconded by Councilor Cheney.

Vote: 7/1, Passed. Councilor Dede opposed.

Councilor Callaghan made a motion to amend 147-32.A. to strike "from 147-32.C." and put a period after the word "appeals"; seconded by Councilor Cheney.

Vote: 7/1, Passed. Councilor Dede opposed.

Councilor Callaghan made a motion to amend 147-32.B to change the Chairman to the Board of Assessors to Chairman of the Dover Utilities Commission; seconded by Councilor Cheney.

Vote: 7/1, Passed. Councilor Dede opposed.

Mayor asked for a roll call vote on the ordinance as amended.

Roll Call Vote: 7/1. Councilor Scott opposed.

3. ORDINANCE RE: CHAPTER 166-53 - VEHICLES AND TRAFFIC SPONSORED BY COUNCILOR WESTON AND COUNCILOR DEDE



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Councilor Weston moved for its adoption; seconded by Councilor Dede. Councilor Dede said the residents approached him to eliminate all trucks on Gulf Road, but it is a State road. If the Council were to eliminate trucks the City would assume responsibility of the road, along with the bridge over Salmon Falls River. He said Alan Stone emailed him with the solution of rerouting the trucks down Oak Street to get to Portland Avenue. He said the Transportation Advisory Committee (TAC) recently came out with a recommendation to limit truck traffic on Cocheco Street, Rogers Street, and Atlantic Avenue. He said trucks will be directed to make a right turn, if they are coming from Maine, only to Oak Street. He said there are no residents living on Oak Street. He said the No Trucks signs can be enforced, except for local deliveries, and it will make the area a great deal safer.

Councilor Weston said the neighbors went to the TAC meetings and presented pictures of their problems. She referred the Council to RSA 266:17-26 and read it to the Council. She said Cocheco Street, Rogers Street and portions of Atlantic Avenue are not structurally built to hold these big trucks. She said for everybody's safety TAC recommended that the Council pass this ordinance. She said it has her full support. Councilor Trefethen said he would be supporting this ordinance. He suggested that there be a sign on Gulf Road that advises trucks to use Oak Street, along with the signs at Cocheco Street, Rogers Street, and Atlantic Avenue saying No Truck Traffic. Councilor Weston said that also was a recommendation from TAC.

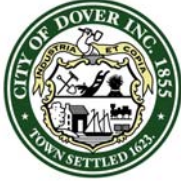
Mayor asked for a roll call vote on the ordinance.
Roll Call Vote: 8/0.

Councilor Trefethen made a motion to suspend the rules to advance Agenda Item 12.B.2.; seconded by Councilor Callaghan.
Mayor asked for a roll call vote on the ordinance.
Roll Call Vote: 7/1, Passed. Mayor Myers opposed.

12.B.2. RESOLUTION RE: ENDORSEMENT OF MEMORANDUM OF UNDERSTANDING – COMMUNITY GARDEN AT AUTUMN AND SIXTH STREET SPONSORED BY COUNCILOR CALLAGHAN

Councilor Weston moved for its adoption; seconded by Councilor Callaghan. Councilor Callaghan discussed the group that approached him about starting a garden on the Cassily property. He said they went to see the Conservation Commission last fall on the recommendation of Marcia Colbath, a member of the Open Lands Committee. They asked for permission to build a garden. He said they went to the Conservation Commission to ask if they could build a shed. He said this alerted the neighbors that something was happening. They all ended up in front of the Conservation Commission, who listened to all of the concerns. The Conservation Commission said that this wasn't within their responsibilities, and referred it to the Council. He said most abutters agree with this Memorandum of Understanding. It lets them build a garden without a shed.

Mayor Myers said he had another Resolution on his desk that has a date on it. Councilor Callaghan made a motion to substitute as a whole; seconded by Councilor Cheney.
Vote: 8/0.



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Councilor Callaghan made a motion to amend the resolution to add language at the end of the paragraph that begins "Now, therefore." He said it ends with "neighbors." and he would like to replace the period with a comma and add "with the approval and oversight by the Conservation Commission." Councilor Trefethen seconded the amendment to the resolution.

Mayor Myers asked for a vote on the amendment to the Resolution.

Vote: 8/0.

Councilor Callaghan said that language transfers the responsibility of final approval to the Conservation Commission, which will be the monitor of this program.

Councilor Trefethen said he had two questions. First, it was his understanding that the whole parcel of land has public access, as part of the City's conservation easement.

City Manager Joyal said that was correct.

Councilor Trefethen said he was concerned that if someone was on the land for a hike, and comes across the trail that is going to be maintained by the garden folks, people will be upset and pointing fingers at the garden folks when they shouldn't be.

Councilor Callaghan asked why someone would be unhappy.

Councilor Trefethen said if the hiker was walking on the property that was not the garden and not the trail maintained by the garden, which they can do right now, that a neighbor is going to look out their window and wonder why they are there and blame the garden folks.

Councilor Callaghan said the land is vacant right now and people have been known to tent in there. He said the garden people and the neighbors have agreed to help each other out by keeping an eye on things.

Councilor Trefethen referred to Autumn Street, and that it specifically says it will not be used as an access to the garden. He said he believed that Autumn Street is a public right of way.

Councilor Callaghan said that wasn't true. He said where Autumn Street ends and the Cassily property begins there is a section of private property. He said there will be signage saying that it isn't the access to the property.

Councilor Trefethen said he understood that, but if he went down there, parked, and went onto the property, how does a neighbor know he isn't connected with the garden.

Councilor Callaghan said he still wouldn't have the right to get there across that property.

Councilor Cheney said this Resolution has her support.

Mayor Myers asked the City Attorney if he has approved the substituted resolution.

City Attorney Krans said it does have his approval.

Mayor Myers said he understood the need for a shed, and asked if they are going through the proper permitting for that.

Councilor Callaghan said yes.

Mayor Myers said the shed is not being done for a little while.

Councilor Callaghan said the location has been approved by the Fire Department and Police Department.

City Manager Joyal said it needed to be approved by him. He said there are a number of issues that have to be resolved and he didn't want to give the impression that it had been approved.

Mayor Myers asked if one of those issues was insurance and liability.

City Manager Joyal said yes.

Mayor Myers said the City owns this property, and asked the City Manager or City Attorney if the Council had any obligation to any resident in the City of Dover to be interested in joining either party.



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City Manager Joyal said there were still some procedural issues that need to be addressed. He said it is certainly within the Council's right to allow an organized group to use the property. He said the control of that property really rests on the Conservation Commission.

City Attorney Krans said the Garden Community is still looking for new members and doesn't seem to be excluding anyone. He also said that if the Council is not happy with the way things are going next week they can revoke everything. He said he felt there were enough protections to cover the basis.

Mayor Myers said he was in favor of this and just wanted to make sure the Council didn't make a precedent. He also hoped this will be set before the Conservation Commission next time, because he didn't feel this was an issue that should have gone before the Council. He spoke to the gardeners about changing the renewal time for this from May 1, 2009 to the end of the season. That way they won't be waiting next year because of stalled negotiations.

Councilor Callaghan said he received a recommendation to get a trailer instead of a shed, and it can be moved or removed.

City Manager Joyal said liability will be an issue. He said the group should provide an insurance policy that indemnifies the City. He wanted the Council to be aware, and he will go forward with the intent that this City Council is supportive to allowing a community garden group to use City property, therefore the City's insurances will be in place. He said they will look for a waiver from the participants, but there is still going to be an exposure, unless the City transfers that risk to their insurance policy.

Councilor Callaghan said he didn't know if they have insurance. He said he would make sure the group knew of the Council's and City Manager's concerns.

Councilor Dede said it is apparent that there hasn't been a full conversation. He said he won't vote for it.

Mayor Myers asked for a roll call vote.

Roll Call Vote: 7/1, Passed. Councilor Dede opposed.

B. ORDINANCES IN THE 3RD READING - NONE

C. RESOLUTIONS

1. RESOLUTION RE: FISCAL YEAR 2008 BUDGET AMENDMENT #1 (PER CITY CHARTER C6-6 THIS REQUIRES A 2/3 FAVORABLE VOTE)

SPONSORED BY MAYOR MYERS BY REQUEST

Councilor Weston moved for its adoption; seconded by Councilor McCusker. Mayor Myers, seeing no one wishing to discuss this resolution, asked for a roll call vote. Roll Call Vote: 7/0. Councilor Trefethen was absent.

2. RESOLUTION RE: ECONOMIC DEVELOPMENT SERVICES AGREEMENT

SPONSORED BY MAYOR MYERS

Councilor Weston moved for its adoption; seconded by Councilor McCusker. Mayor Myers discussed his views on this position. He named all the members of the DBIDA Board. He said only one member is not a Dover resident. He said one



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advantage of being a DBIDA employee instead of a City employee is with a DBIDA employee the Council would not be subject to the City's pay classification plan and benefits package, which would be more advantageous to the City. He said if it is a City hire, the position already exists, the fee schedule already exists, and we know what the benefit offerings have to be.

Councilor Dede made a motion to table; seconded by Councilor Trefethen.

Vote: 8/0.

3. RESOLUTION RE: DISCONTINUANCE OF HANSON WAY

SPONSORED BY MAYOR MYERS BY REQUEST

Councilor Weston moved for its adoption; seconded by Councilor Trefethen.

Councilor Trefethen said this discontinuance has been talked about for many years and one portion has already been done. He said this action will discontinue the rest of Hanson Way. He referred to the handouts given out earlier and discussed them with the Council. He said this had stopped being a road many years ago. He said this is the first step that needs to occur. He referred to Mr. Colbath's comments during the public hearing. He said the purpose of this resolution is to distinguish this as a right-of-way and then enable the property to be divided according to statutes and civil agreements.

Councilor Callaghan asked if the City owns this land.

Councilor Trefethen said the City does not own this land because it was developed in colonial times. He said the actual owners of the land are the abutters.

Councilor Callaghan referred to the 2004 Class Six Road Committee decision to keep the 74 foot section and reaffirm that same position in 2007.

Councilor Trefethen said they didn't reaffirm it in 2007.

Councilor Callaghan read the decision.

Councilor Trefethen said this strip of land never came up. He said it is an old new wrinkle. He said it was never part of the 2007 decision because it was never discussed. Mayor Myers asked the City Attorney if he wished to speak.

City Attorney Krans said two weeks ago Mr. Colbath came to the podium and raised a point. He said he researched it and found Mr. Colbath to be right. He said he had two pictures that showed how he was right two weeks ago. He said that during the public hearing tonight he submitted a second picture that wasn't right. He showed the Council the difference between the two diagrams that Mr. Colbath showed two weeks apart.

Councilor McCusker made a motion to suspend the rules to continue with the agenda; seconded by Councilor Trefethen.

Roll Call Vote: 7/1, Passed. Councilor Callaghan opposed.

Councilor Cheney said the Reilly property can be accessed by Crosby Road.

City Attorney Krans said Mr. Colbath was saying two things. First, if the Council completely discontinues all of Hanson Way, the Reillys would not be able to get to their property. He said he didn't agree with that. He said the official maps illustrates quite clearly, that in 1983 the part that was deeded to the City would not prevent the Reillys from crossing Crosby Road to their property. Second, if in addition to Faraday Drive,



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they want to wrap around and have City access to the back of the industrial park this would be a policy decision. He said he didn't think that was necessary, but it was a decision the Council would have to make. He said the first map was registered at the Registry of Deeds, and the second map was hand drawn from a GIS map. He said the decision the Council makes should be made from the first map.

Councilor Trefethen said that Mr. Reilly was at a few of the Class Six Road Committee meetings last year and fully understood what they were going to recommend, because the result of the recommendation was that Crosby Road would then abut his property. He also said that regarding the issue that the access from Hanson Way to the Reilly property is the only dry access, he has never seen a case where DES has denied a wetland permit to build a driveway or road over that wetlands to get to the property since it is the only access.

Councilor Cheney asked if the packet was misnumbered. She said she is looking at three resolutions for Hanson Way.

Mr. Woodruff said he spoke with Mr. Reilly last week and he reaffirmed that he was very happy to access that very large upland piece of property that is completely wooded. He said what is before the Council tonight is to discontinue the public's right to pass. The City has no other interests other than to follow the process that is put forth in the RSA.

Mayor Myers asked if Mr. Reilly would have complete access to his property if the Council passes this Resolution tonight.

Mr. Woodruff said that was correct.

Mayor Myers said that if Mr. Reilly had concerns he would have been here tonight.

Mr. Woodruff said he asked Mr. Reilly to either write or come in, and he said that he was good to go.

Councilor Weston asked why there were two abutters, one who wants this to stay open and one who couldn't care less.

Mr. Woodruff said he felt this was just a matter of confusion, but he can't get into the reasons why.

Mayor Myers asked for a roll call vote.

Roll Call Vote: 7/1, Passed. Councilor Callaghan opposed.

4. RESOLUTION RE: FY2008 TRANSFER OF APPROPRIATION – GENERAL FUND

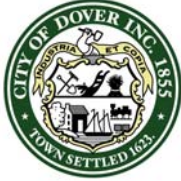
SPONSORED BY MAYOR MYERS BY REQUEST

Councilor Weston moved for its adoption; seconded by Councilor Dede.

Mayor Myers said this resolution was tabled last week so the City Manager could give a little background on the general sources of funding for this budget transfer.

City Manager Joyal said the original resolution identified the accounts that were going to have overages, which included the debt service that needed to be addressed by the City and School. He said he listed out the accounts. He said the estimated amount needed is \$613,651.25. He said he estimates there is \$617,000.00 available to cover the overages.

Councilor Callaghan made a motion to amend the resolution to include the email communication regarding the subject of this resolution as background information; seconded by Councilor Trefethen.



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Vote: 8/0.

Mayor Myers asked for a roll call vote on the Resolution as amended.

Roll Call Vote: 8/0.

12. NEW BUSINESS

A. CONSENT CALENDAR

1. RAFFLE - GREATER DOVER CHAMBER OF COMMERCE
2. ASSEMBLY - ELAINE DEAN
3. **RESOLUTION RE: CHEMICALS FOR RECREATION AND COMMUNITY SERVICES B08096**
SPONSORED BY MAYOR MYERS BY REQUEST
4. **RESOLUTION RE: OCCUPATIONAL HEALTH SERVICES B08082**
SPONSORED BY MAYOR MYERS BY REQUEST
5. **RESOLUTION RE: CUSTODIAL SERVICES AT MCCONNELL CENTER**
SPONSORED BY MAYOR MYERS BY REQUEST
6. **RESOLUTION RE: PROPERTY AND LIABILITY INSURANCE B08087**
SPONSORED BY MAYOR MYERS BY REQUEST
7. **RESOLUTION RE: SPECIALIZED MUNICIPAL LEGAL SERVICES B08098**
SPONSORED BY MAYOR MYERS BY REQUEST
8. **RESOLUTION RE: WOODARD AND CURRAN AUTOMATE THE SCADA CONTROL FUNCTIONALITY AT LOWELL AND GRIFFIN**
SPONSORED BY MAYOR MYERS BY REQUEST
9. **RESOLUTION RE: "THE WAVE" EXPENDABLE TRUST**
SPONSORED BY MAYOR MYERS BY REQUEST
10. **RESOLUTION RE: JOHN F KENNEY SCHOLARSHIP FUND**
SPONSORED BY MAYOR MYERS BY REQUEST
11. **RESOLUTION RE: FINANCIAL ADVISORY SERVICES B08028**
SPONSORED BY MAYOR MYERS BY REQUEST
12. **RESOLUTION RE: DEEDING OF A 20FT WIDE PORTION OF LAND ADJACENT TO HANSON WAY**
SPONSORED BY MAYOR MYERS BY REQUEST

COMMITTEE REPORTS

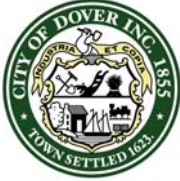
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| 1. Appointments Committee | 8. City / School Joint Service Committee |
| 2. Arena Committee | 9. Solid Waste Advisory Committee |
| 3. Arts Commission | 10. Transportation Advisory Committee |
| 4. McConnell Center Committee | 11. Joint Building Committee |
| 5. Planning Board – Councilor D. Trefethen | 12. Recreation Advisory Board |
| 6. Cable Franchise Negotiations Committee | 13. COAST Bus |
| 7. School Board Liaison | |

Councilor Weston moved for the adoption of the Consent Calendar; seconded by Councilor Dede.

Mayor Myers asked if any Councilors wished to pull items for further discussion.

Councilor Callaghan asked to pull 12.A.2, 12.A.8, and 12.A.12.

Councilor Cheney asked to pull 12.A.4. and 12.A.6.



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Councilor Scott asked to pull 12.A.7. and 12.A.11.

Mayor Myers asked for a roll call vote to accept the remaining items left on the Consent Calendar.

Roll Call Vote: 8/0.

Councilor Weston moved to accept 12.A.2.; seconded by Councilor Callaghan.

Councilor Callaghan asked when it expired.

City Manager Joyal said she didn't technically need this.

City Clerk Lavertu said she was instructed not to impede traffic by the police.

City Manager Joyal said she approached the Clerk's office wanting to do the right thing, but technically what she wants to do she doesn't need a permit for. Therefore, there is no expiration on this.

Councilor Callaghan asked if having no date was intentional.

City Manager Joyal said there is no specific date. She can stand on the sidewalk whenever she wants.

Councilor Callaghan said he was okay with it.

Mayor Myers asked for a vote.

Vote: 8/0.

Councilor Weston moved to accept 12.A.4.; seconded by Councilor Cheney.

Councilor Cheney asked what this entails.

City Manager Joyal said it was occupational health services. It was charged to medical services. It was provision of employees' pre-employment physicals, CDL drug testing, return to duty fitness evaluations, and first aid and injury services. He said the City also utilizes them for health screenings and wellness programs. He said they are essentially the doctor and nurse that the City contracts with for employee issues.

Councilor Cheney asked how it is used.

City Manager Joyal said he generally doesn't know the amount needed because it's based on accidents and injuries. He preferred not to spend anything.

Mayor Myers asked for a roll call vote.

Roll Call Vote: 8/0.

Councilor Weston moved to accept 12.A.6.; seconded by Councilor Cheney.

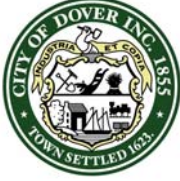
Councilor Cheney asked about not getting bids from everyone, and the explanation being the City's loss history.

City Manager Joyal said it could have been from any number of reasons. He said the City's loss history is not out of line with other municipalities. He said that the City did have two major unsettled lawsuits at the time we went out to bid. He said the other reason he believed the City didn't get quotes was because 90% of the State get their insurance through the Local Government Center.

Mayor Myers asked for a roll call vote.

Roll Call Vote: 8/0.

Councilor Weston moved to accept 12.A.7.; seconded by Councilor Trefethen.



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Councilor Scott said he knew the City had to spend money with lawyers. He said he didn't like that it said \$25,000 or greater. He said he felt it should have a limit of \$25,000 for each of these law firms, and then have the City Manager come back to ask for additional funding.

Councilor Scott made a motion to amend the resolution to state that the City Manager come back to the Council when any of these three law firms exceed \$25,000; seconded by Councilor Callaghan.

Councilor Scott said the City has to exercise some control.

Councilor Callaghan said his note was not to exceed \$5,000, but he will go along with \$25,000. He asked, if the City spends more than \$25,000 on a vendor doesn't it have to come back to the Council anyway?

City Manager Joyal said this is why it is coming before the Council now.

Councilor Cheney said she supported the amendment.

Vote: 4/4, Failed. Mayor Myers, Councilors Dede, McCusker, Trefethen opposed.

Councilor Trefethen said the amount was already approved in a budget line item. The City Manager cannot spend more than budgeted.

Mayor Myers said he was pleased with the efficiency of the legal department and the reduction in funds to outside legal services.

Councilor Callaghan said he would like this brought to his attention as it is spent. He felt it was just too vague.

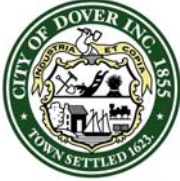
Mayor Myers said that would have to be a Council direction to the City Manager to show that, and it can't be one Councilor asking for it.

Councilor Callaghan said he was told he could have private meetings to discuss it, but he felt it should be more out in the public than that.

City Manager Joyal said this was clearly micro-managing. He said to Councilor Callaghan that he was encouraging him to go out and use one law firm and spend a certain amount, and spend a certain amount at another law firm, so he doesn't have to go before the Council; instead of using a set of attorneys who have a knowledge of Dover and are familiar with the City's Charter and Ordinances. He said to Councilor Callaghan that if he didn't have enough faith in him as City Manager to manage the legal services budget of a \$102,000,000 corporation, then he felt it was more than just wanting to monitor the budget. He said there is a monthly financial report that is generated. He said if he was specifically interested in legal, then he can get him a monthly report on legal. He asked if it was just legal, or is it how much did the City spend on electricity, gas. He asked when it was going to stop. He said every single line item in the budget is listed in the monthly financial report and the status. Every single month he produces a list of invoices that are paid. Every single month he produces a list of purchase orders that are paid.

Councilor Callaghan asked where all the losses are, and felt they must tie into legal issues, and he wanted to know who was accountable for those losses.

City Manager Joyal said those were good questions, but the City has a City Manager and Department Heads that can handle those issues. If it is a question we will focus on answering that question, but we're not getting other things done in the meantime. He told Councilor Callaghan that he has to focus on the big stuff, and spending \$25,000 on legal fees is not the big picture stuff. He said to Councilor Callaghan that he had to let the Department Heads and the City Manager manage the City. He said we are producing all of this.



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, June 11, 2008**
Meeting Time: **7:00pm**

Councilor McCusker felt this Resolution is something the Council does because we don't want to have the City Manager come back each time for permission to expend out of that account. He said he was confused why there is a question that the Council has to allow the City Manager to do this. He said the City Manager does this every year and he thought it was just a routine procedure. He said it was turning into something that questioned whether or not the City Manager is going to do this properly. He said if the City Manager is not doing this right, then we don't have the right guy or we pay him too much. He can't understand a question of this caliber on an issue so small. He said the City doesn't have an extended legal staff and we need someone on retainer that is familiar with the City. He said he supported this because he thought it was just a routine issue.

Councilor Weston asked the City Manager to explain why the City has these three law firms on retainer.

City Manager Joyal said Donahue, Tucker and Ciandella is a firm the City uses for second opinions primarily on Charter issues, Ordinance issues. If the City Attorney is conflicted out, then this firm assists the City. Sheehan, Phinney, Bass & Green; the main attorney for the City there is John Peltonen, which the City uses for environmental issues. He said the last one is Mitchell Bates, and their area is abatements, abatement issues, and abatement appeals. He said the City only use these firms when we need to back up the City Attorney or it is a special area where the City Attorney needs assistance.

Councilor Cheney said she didn't disagree that the City will need these firms for outside services. She said she didn't like the blanket purchase order, because it exceeds the administrative code.

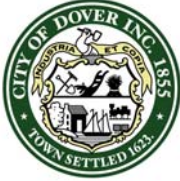
Councilor Dede referred the Council to Page 5 of 6 of the Resolution. It lists the rates that these law firms have agreed to. He said the Council has done this countless times. He said to cast aspersions on the credibility or reliability of the City Manager making the right decision is totally out of place. He is perfectly comfortable with the City Manager doing a bang up job in deciding when and where the City needs to make these expenditures. He said any aspersions that counter that are not based in fact, but in suspicions, period.

Councilor Scott said the Council is elected to look after the receipts and disbursements of taxpayer money. He said his request is not casting aspersions, but allows the Council to exercise their elected responsibilities. He said there will be times when the City has to spend more, but he wanted to know what the spending level is. He said he would not support this as it is.

City Attorney Krans said there are actually two ways the City saves money by doing this. He said the City gets a greatly reduced hourly rate. He said the City also saves by not having a remobilization charge. He said one of the assets of having him was that he saved the City on start up fees. He was able to get an outside attorney up to speed because he was able to explain the situation and they weren't starting from scratch.

Councilor Trefethen said this Resolution is locking in rates with these firms. He said if the Council doesn't pass this Resolution, the City Manager will probably still go to these firms because of their knowledge of what is going on in Dover. We may get these rates that these firms have quoted, but probably just for a while. He said the City Manager can't spend more money than what the Council voted on last week.

Councilor Scott said he is not arguing about the rates per hour or the law firms. He is saying that the Council should review when \$25,000 is passed.



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Mayor Myers said that motion was made, but it didn't pass, and the Council is back with the original resolution.

Councilor Callaghan made a motion to have a not-to-exceed amount of \$112,000 of all money spent, which is equal to the budget; seconded by Councilor Scott.

Councilor Callaghan said it is just a safety value. He said he just wants to watch the system.

Councilor Dede said if the City Manager was in the position that something had to be done immediately and the Council didn't have a meeting for another two weeks, if the motion passes it would either need to be a special meeting or wait the two weeks. He said the City Manager would be hamstrung and not be able to act responsibly as the City pays him well to do.

Mayor Myers said he wouldn't support that, because he thinks the City Manager has a track record of letting the Council know when he is running into trouble with particular items.

Councilor Cheney said she didn't agree with Councilor Dede. She said the City Manager is authorized in any emergency to protect the health, wealth, and assets of the City. She said she supported this amendment.

Councilor McCusker asked if the City Manager asked for this request each year.

City Manager Joyal said yes, he does this with any regular recurring vendor.

Councilor McCusker asked if he did it last year for legal services.

City Manager Joyal said yes.

Councilor McCusker asked if he did it the year before for legal services.

City Manager Joyal said yes.

Councilor McCusker said he had no clue why the Council is discussing it. He has had no issues with doing it this way, yet tonight we're telling him not to do it this way. He said it was ridiculous and plans to remind the Council every time this situation comes up. He told the Council to let the City Manager do his job. He apologized to the Council.

Mayor Myers asked for a vote on the amendment of the resolution.

Vote: 3/5, Failed. Councilors Callaghan, Cheney and Scott voted in favor.

Mayor Myers asked for a roll call vote.

Roll Call Vote: 7/1, Passed. Councilor Callaghan opposed.

Councilor Weston moved to accept 12.A.8.; seconded by Councilor Callaghan.

Councilor Callaghan wanted to comment on the contract. He said it is not the City's. He said the City needs a standard contract.

Mayor Myers asked the City Manager if the City Attorney had signed off on the contract.

City Manager Joyal said yes.

Mayor Myers asked the City Manager what the City Attorney would do if he had any issues with the contract.

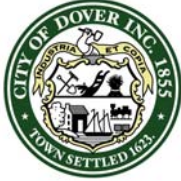
City Manager Joyal said the City Attorney would go back to the purchasing agent and work with the department head to resolve those issues with the vendor.

Mayor Myers asked how often that happens.

City Manager Joyal said fairly often.

City Attorney Krans said the City is moving to put the City's contract in our RFPs. He said this company has been working with the City for ten years and the City is committed to this company.

City Manager Joyal said the City has made changes to use our own contracts, but in this case it didn't seem feasible.



CITY OF DOVER

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Mayor Myers asked for a roll call vote.
Roll Call Vote: 8/0.

Councilor Weston moved to accept 12.A.11.; seconded by Councilor Scott.
Councilor Scott said he felt this work should be done by the Finance Director. He felt the City should do the bonding ourselves.
City Manager Joyal said this was recommended by the Finance Director. He said issuing bonds is an elaborate process. He said very few communities do this without a financial consultant.
Mayor Myers said Keene, Portsmouth, Concord, and Nashua use the same firm.
Mayor Myers asked for a roll call vote.
Roll Call Vote: 7/1, Passed. Councilor Scott opposed.

Councilor Weston moved to accept 12.A.12.; seconded by Councilor Trefethen.
Councilor Trefethen said if the Council doesn't do it now the abutters will be back asking for it. He said he was ambivalent about it.
Mayor Myers asked the City Attorney if there were any legal issues with this.
City Attorney Krans said if the City doesn't do it, the City will have a 20 foot parcel of land with no way to get to it. He said this is lawyer housekeeping.
Councilor Callaghan said he objected to any piece of land being considered worthless. He said he is not in favor of giving away a piece of property.
Mayor Myers asked for a roll call vote.
Roll Call Vote: 6/2, Passed. Councilors Callaghan and Scott opposed.

B. RESOLUTIONS

1. RESOLUTION RE: DOG WARRANT SPONSORED BY MAYOR MYERS BY REQUEST

Councilor Weston moved for its adoption; seconded by Councilor Dede.
Mayor Myers asked for a vote.
Vote: 8/0.

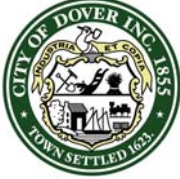
C. ORDINANCES IN 1ST READING-

1. ORDINANCE RE: DOVER LAND USE COMMISSION (TO BE REFERRED TO PUBLIC HEARING ON JULY 9, 2008) SPONSORED BY COUNCILOR CALLAGHAN

REMOVED.

D. COUNCIL CORRESPONDENCE

- 1. Cocheco River Watershed Coalition**
- 2. Comcast**



CITY OF DOVER

CITY COUNCIL - MINUTES

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Councilor Weston made a motion to accept correspondence and place on file; seconded by Councilor Trefethen.
Mayor Myers asked for a vote.
Vote: 8/0.

13. COUNCIL MATTERS OF INTEREST

Councilor Callaghan spoke of the event that took place at the Library at 5:30 tonight. He said Ed Bleiler donated \$10,000 to the library and read a prepared speech, which indicated he wanted it spent on the carpet. He said that Mr. Bleiler also mentioned that he donated \$5,000 to the museum. He wanted to thank him for the generous donation to the City.

14. ADJOURN

Councilor Dede made a motion to adjourn at 11:45 pm; seconded by Councilor McCusker.