



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, July 9, 2008**
Meeting Time: **7:00pm**

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

Councilor Callaghan 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 Trefethen filled in as Deputy Mayor.

4. PROCLAMATIONS – AWARDS

5. APPROVAL OF AGENDA

Mayor Myers asked the Council if they had any agenda items they would like to remove, add, or change.

Councilor Trefethen asked that 12.A.3. and 12.A.4. be removed from the Agenda, per the request of the City Manager, because they need to go out to rebid.

Councilor Weston made a motion to accept the Agenda as amended; seconded by Councilor Cheney.

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.

Edward Bleiler, 28 Isaac Lucas Circle: He said he wished to discuss two topics. First, the Foster's Daily Democrat article regarding the Whittier Street Bridge and the lack of maintenance of the City's infrastructure. He said that all vehicle registration fees, parking tickets, and street violation fines should go to repair of the City's infrastructure, and he felt they haven't been in the past. Second, he discussed the total cost for the repairs to the Butterfield Gym. He requested that the City Manager release the total cost during the City Manager's Report.

Mayor Myers, seeing no one else wishing to speak, closed Citizen's Forum.

7. PUBLIC HEARINGS

A. RESOLUTION RE: DISCONTINUANCE OF WATER STREET

SPONSORED BY MAYOR MYERS BY REQUEST

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

B. ORDINANCE RE: CHAPTER 3 ADMINISTRATIVE CODE DOVER ENERGY COMMITTEE

SPONSORED BY MAYOR MYERS BY REQUEST



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Eric Steltzer, Chairman, Former Dover Energy Committee: He discussed the highlights of the Council's concerns with the Ordinance. First, he said the Committee was just going to be in an advisory capacity, and would not be interested in making policy. He said they envision working with the Conservation Commission, Open Lands Committee, and the City Council, as well as department heads on the energy issues. Second, he said they changed the name of the Committee in the Ordinance to reflect their primary focus, and didn't want to cross paths with other committees that were already established. Third, he discussed the differences in services between Energy Service Company (ESCO) and the Dover Energy Advisory Committee. He discussed the qualifications of the people on the previous committee and the possibilities for the new committee. He discussed the issues on which the committee would like to work.

Elizabeth Goldman, 44 Rutland Street: She discussed the change in the name of the Committee. She spoke on the change of the word "protect" to "insulate". She said the EPA regards Dover as having one of the most effective energy committees in the State.

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

8. CITY MANAGER'S REPORT

City Manager Joyal said he sent out corrections to some of his data tables in the City Manager's Report. He said he also received some Human Resource statistics, and added those in the email that was sent out. He discussed the press release regarding the Whittier Street Bridge. He said they have consulted with the State of New Hampshire and the City Engineer, and have determined the need to reduce the weight limit and speed limit on the bridge. He said the bridge is still safe to use, but reducing the weight limit and speed limit will help preserve the bridge until it can be replaced. He said it would not affect emergency vehicle access, but only trucks and buses. He said the City is in the process of applying for State aid for the bridge replacement. He said the City has not started immediately to replace the bridge; because they feel there will be State funds to help with the costs. He said there will be a resolution coming before the Council, regarding Willand Pond, to award a bid for the consulting agency that is going to work on the preliminary design. He spoke on the ESCO energy issues, and noted they will be beginning interviews with the three bids that were received. He expects to have some information at the July 16, 2008 Workshop Session. He discussed the nomination to have the Cochecho River designated as a significant river under the New Hampshire River Management Protection Act. He said there will be a Public Hearing on July 23, 2008 at 7:00 pm at the Rochester City Hall. He said the EPA will be conducting an informational session on the consent decree that has been finalized concerning closure of the Tolend Landfill. He said it would be held on July 17, 2008, 7:00 pm, at 271 Mast Road. He spoke to Mr. Bleiler's comments concerning the final cost to repair the Butterfield Gym and said he didn't have them, but would report on it as soon as he did have them.

Mayor Myers asked if the Council had any questions or comments regarding the City Manager's Report.



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Councilor Scott had a few comments. First, he requested that the pages of the City Manager's Report be numbered. He referred to Page 6, Jeff Taylor & Associates complete work on the open space development of the Master Plan. He asked what the cost was for that contract. City Manager Joyal said he would have to look it up.

Councilor Scott asked which year that was appropriated.

City Manager Joyal said he would have to look that up, but he believed it was in the budget for this past year.

Councilor Scott referred to Page 15, Downtown traffic signal improvements for Third Street, Central Avenue and Chestnut Street intersections. He remembered the Council discussing this and asked if the Council had voted on it.

City Manager Joyal said that was funding that was appropriated as part of the Capital Improvement Program.

Councilor Scott referred to the mention of Edwards, Angell, Palmer & Dodge, for \$45,000, for professional services relating to something.

City Manager Joyal said they were the attorneys used for the bond issuance process.

Councilor Callaghan referred to the Berry Brook Watershed Management. He said there is still no mention of the industrial complex that travels through the property, directly under the building. He didn't want that to be overlooked, and would like to see that in the Report. He referred to the \$1.3 million left in the general fund, and the culmination of all the other funds, and asked if the City could use some of that money to fund the Resource Officer, for which the City did not receive grant money.

City Manager Joyal said the numbers were produced as of July 1st, and not all of the postings for month-end have been reflected. He said the debt service amount is not reflected in the \$1.3 million in the general fund, and that it is close to \$500,000. He said Community Services actually has a deficit in Community Outlay that will show at the end of the year. He said the numbers in the report are preliminary numbers, and are not the true numbers that will be left after the audit. He referred to finding the money to fund the Resource Officer, and noted that they will find the money, but not out of these monies, because the year has closed. He said the Council would have to do a budget appropriation for Fiscal Year 2009. He said any monies that are left over from this year will go into Fund Balance, and the Council will have to do an appropriation out of Fund Balance.

Councilor Callaghan asked how long it will take to get the numbers close to the point where the Council can know if there is enough money left in the Fund Balance to fund the Resource Officer.

City Manager Joyal said the City will not have audited financial statements for year-end until December. He could give the Council estimates by the end of July, but he couldn't be sure until the audit financial statement is received. He said that there are funds currently available in Fund Balance and the Council can make an appropriation. He said the Fund Balance carries over from year to year.

Councilor Callaghan asked if a resolution was needed to make that happen.

City Manager Joyal said it would be a budget amendment.

Mayor Myers asked if a public hearing would be needed.

City Manager Joyal said yes. He also said it would more than likely be reflected as an override to the tax cap, because it is being funded out of revenues from a savings account, as opposed



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to revenues derived from operations. He said that would require a 2/3 vote and a public hearing.

Councilor Callaghan asked, if the money was there and the Council doesn't have to adjust tax revenues, then why would it be considered an override?

City Manager Joyal said the Council would basically be spending money it doesn't have. He said it was deficit financing to tap into the savings account without raising the money, spending more money than what is being taken in for revenue.

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

Vote: 8/0.

9. MINUTES

A. MINUTES FROM – JUNE 25, 2008

Councilor Trefethen moved the Minutes approval; seconded by Councilor Dede.

Vote: 8/0.

10. MAYOR'S REPORT

Mayor Myers thanked Councilor Trefethen for filling in as Deputy Mayor. He mentioned he did a few ribbon cuttings for the Dover Chamber of Commerce. He said on the morning of the Fourth they had the best turnout ever for the reading and reenactment of the Declaration of Independence. He thanked the City staff for their extra time and putting on a great fireworks show.

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

Vote: 8/0.

11. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2ND READING-NONE

B. ORDINANCES IN THE 3RD READING- ORDINANCE RE: CHAPTER 3 ADMINISTRATIVE CODE DOVER ENERGY COMMITTEE (TO BE REMOVED FROM TABLE) SPONSORED BY MAYOR MYERS BY REQUEST

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

Mayor Myers thanked the members who talked during the Public Hearing.

Councilor Trefethen said after speaking with other councilors and committee members, he is not quite ready to do anything with this Ordinance. He wanted to work on it a little more and bring it up again at the August meeting.

Mayor Myers asked if it could be brought up in a workshop session.

Councilor Trefethen said that was a good idea, and asked if it could be discussed during the July 16, 2008 Workshop Session.

Councilor Callaghan said he also spoke with a member of the committee and came up with a substantial list of items that he felt were advantageous to making the committee work well.



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Councilor Trefethen moved to table this Ordinance for the July 16, 2008 Workshop Session and for it to be put on the August 13, 2008 Agenda; seconded by Councilor Callaghan.
Vote: 8/0.

C. RESOLUTION RE: DISCONTINUANCE OF WATER STREET SPONSORED BY MAYOR MYERS BY REQUEST

Councilor Trefethen moved for its adoption; seconded by Councilor McCusker.
Mayor Myers asked the City Manager to give some background information on this Resolution.

City Manager Joyal said this was part of an agreement with the property owner for access to the Washington Street Bridge. The property owner owns two parcels of land that are intersected by Water Street. He said it was part of the negotiated purchase of the land the City needs for the Washington Street Bridge. He said the City will maintain an easement to the property to maintain water and sewer utilities. He asked the Council to make an amendment to the Resolution. He asked that after the words "public highway" that the words "subject to the recording of the utilities easement" be added, and to then continue on with the original wording.

Councilor Trefethen moved to make that amendment; seconded by Councilor Dede.
Mayor Myers asked for a vote on the amendment.

Vote: 8/0.

Mayor Myers asked for a vote on the amended Resolution.

Vote: 8/0.

12. NEW BUSINESS

A. CONSENT CALENDAR

1. TAG PERMIT – DOVER LITTLE GREEN CHEERLEADERS
2. BLOCK PARTY – FLORENCE STREET

3. RESOLUTION RE: #2 HEATING OIL B09003
SPONSORED BY MAYOR MYERS BY REQUEST
4. RESOLUTION RE: DIESEL FUEL B09004
SPONSORED BY MAYOR MYERS BY REQUEST

Items 12.A.3. and 12.A.4. were removed from the Agenda.

5. RESOLUTION RE: NATURAL GAS B0886 REBID
SPONSORED BY MAYOR MYERS BY REQUEST
6. RESOLUTION RE: SETTING VOTING HOURS FOR SPECIAL ELECTION FOR WARD 1 CITY COUNCILOR
SPONSORED BY MAYOR MYERS BY REQUEST
7. RESOLUTION RE: CHANGE OF WARD 4 POLLING FACILITY
SPONSORED BY MAYOR MYERS BY REQUEST



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COMMITTEE REPORTS

- | | |
|--|--|
| 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 Trefethen moved for its adoption; seconded by Councilor Dede.

Mayor Myers asked if the Council had any items they would like pulled for further discussion.

Councilor Scott asked for Item 12.A.5.

Mayor Myers asked for a vote on the rest of the Consent Calendar.

Vote: 8/0.

Councilor Trefethen moved to substitute as a whole; seconded by Councilor Weston.

Mayor Myers asked for a vote for substituting the Resolution as a whole.

Vote: 8/0.

Councilor Scott discussed the price of oil. He felt the City should consider going out to bid every three months.

City Manager Joyal said there would probably be no interest from vendors for a short period of time. He said he would look into it if the Council decided, but considered it to be a gamble.

Mayor Myers asked if the recommended vendor for this bid was locking in the price until August of 2009.

City Manager Joyal said that was correct.

Councilor Trefethen asked if the price was to go down if the City could go out to bid at that point, or was the City locked in to buy an "x" number of therms.

City Manager Joyal said the City was locked in to buy an "x" number of therms of gas. The vendor is making a commitment to buy a specific amount of therms for the City, but the City doesn't pay for it until we use it.

Councilor Callaghan said we should ask the vendors for pricing for different time periods to have something to compare.

Councilor Dede said he would be comfortable in locking in this price, because heating fuel is just going to go up, and he did not want to gamble.

Councilor Cheney asked if the note on the Substituted Resolution should be removed.

Councilor Weston said she agreed with Councilor Dede, to lock in on the price for a year.

Mayor Myers said Councilor Scott does bring up a valid point. He asked the City Manager, if the Council didn't vote this in this evening, if it would keep the Dover Housing Authority and Schools from locking in at this price.

City Manager Joyal said that was correct. He said right now the Resolution is based on its purchasing power of combining the City, School, and Dover Housing Authority. He said they asked the bidders to give their pricing in two different ways: One, combining all three entities in one price; and Two, separate pricing for all three entities. He said the Resolution combines all three entities and saves \$5,000. He handed out a worksheet to the Council and discussed it.



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Councilor McCusker asked if the Dover Housing Authority could reimburse the City to offset the additional \$4,179.

City Manager Joyal said they could discuss that with the Dover Housing Authority and see if they are willing to make up the difference with the City departments. He said it can be done, but will be very convoluted to figure out actual figures.

Councilor Trefethen said the City will have to find \$17,000 somewhere else in the budget to cover our increase by the combination of all three entities.

Councilor Dede said the Dover Housing Authority expenses don't show up in the tax bills. He said the taxpayers will pay more for the City and School by combining. He said he didn't know why this was introduced.

Councilor Trefethen asked to make an amendment to award the bid to Santa Buckley Energy, just for the City portion at \$1.65 4/10, and everybody else will be on their own; seconded by Councilor Dede.

Mayor Myers said he hoped Councilor Trefethen's amendment would fail, because he wanted to make an amendment to have the City Manager go to the Dover Housing Authority and ask them to pay the \$4,000 difference, so the taxpayers won't pay it.

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

Vote: 3/5, Failed. Councilors Cheney, Dede and Trefethen voted in favor.

Councilor Scott asked to make an amendment for the City to choose MSI Utilities, because it will cost \$132,000 less than Santa Buckley Energy, because he doesn't believe the swing fee will have that much of an impact; seconded by Councilor Cheney.

City Manager Joyal said it was not \$132,000, but \$29,536. He said Councilor Scott was combining entities that won't participate with the City's portion. He said he was informed by the School Staff and Dover Housing Authority Staff that they would not participate in the swing fee variability. They wanted to go with Santa Buckley.

Mayor Myers asked Councilor Scott if he wanted to change his amendment to the City only. Councilor Scott said yes. Councilor Scott made a motion to the amendment to select MSI Utilities for the City; second by Councilor Cheney for discussion.

Councilor Scott said he doesn't like leaving out the other entities. He offered to show them his statistics from PSNH on how constant the temperatures are in the winter months, which makes the danger of the swing fee negligible.

City Manager Joyal said the City and School have contracted with MSI Utilities before and have had concerns about how their contract operates. The School and Dover Housing Authority said they did not want to contract with MSI Utilities. He asked the Council to go back to Santa Buckley Energy, and go to the Dover Housing Authority to make up the difference.

Councilor McCusker said he didn't think he would ever be in favor of taking the risk. He said he felt the Dover Housing Authority was saving over \$9,200 and would consider helping the City recoup the \$4,100.

Councilor Cheney said she would not support this amendment without the other entities.

Mayor Myers asked for a vote on the amended Resolution.

Vote: 1/7; Failed. Councilor Scott voted in favor.

Councilor Cheney asked for an amendment to the original Resolution, that the Dover Housing Authority will give the City \$4,179 to make up the difference; seconded by Councilor Weston.



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Councilor Trefethen asked if the money received from another governmental agency is booked as revenue, and not toward the additional \$17,000 expense on the City.

City Manager Joyal said he was hoping that indirectly it would. He said it could be grant money that will offset some of the money.

Mayor Myers asked for a friendly amendment, that if the Dover Housing Authority said no, then the City would accept the standalone bid.

Councilor Cheney said no. She felt it should go out to rebid at that point.

Mayor Myers said he would not support it if we don't have a way to protect the City and taxpayers with that dollar amount.

Mayor Myers asked for a vote on the amendment.

Vote: 6/2, Passed. Mayor Myers and Councilor Weston opposed.

Councilor Callaghan made a motion that the Council go back to the original motion made by Councilor Trefethen, and if the Dover Housing Authority doesn't want to do business, they could then go separate; seconded by Councilor Trefethen.

Mayor Myers said he agreed with that.

Vote: 8/0.

Councilor Dede asked for clarification of the new Resolution as amended.

Mayor Myers said the Resolution is to go with Santa Buckley Energy for the locked in price for City, School, and Dover Housing Authority, with the stipulation that the Dover Housing Authority provide \$4,179. If they choose not to participate, then the City Manager will lock in the price just for the City. He asked for a Roll Call Vote on the amended Resolution.

Roll Call Vote: 8/0.

B. RESOLUTIONS

1. RESOLUTION RE: EXCLUSIVE USE OF THE CITY SERVER FOR CITY BUSINESS

SPONSORED BY COUNCILOR DEDE

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

Councilor Dede said he has had an opportunity to look at what the State is doing. He said it was pointed out to him that this motion was premature. He said he was trying to lock in what the Council uses for its directories. He said it is a bigger issue than the City Council or any single Councilor. Councilor Dede moved to withdraw the Resolution.

Mayor Myers indicated that the Resolution was withdrawn.

2. RESOLUTION RE: CITY OWNED EMAIL SERVER USAGE CORRESPONDENCE POLICY

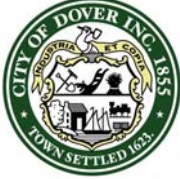
DOVER CITY COUNCIL

SPONSORED BY COUNCILOR CHENEY

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

Councilor Cheney said this Resolution would provide the City Manager with an email address, to which that he can then forward City emails.

Councilor Trefethen said he will support this Resolution. He said he has been adamant that the City Council use only the City's email server. He said even though the emails are being looked at on a private email service, the input and output of email goes through the City server.



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Councilor Dede said he would not support it. He maintains that the City won't know about outgoing emails.

Councilor Scott said he has told his constituents that if they email him with a complaint or suggestion, that stays between the constituent and himself, unless they want him to release it to a third party. He wanted to make sure this Resolution does not interfere with that, because he would not want to insist that his constituents go through the City Server to reach him. He said if that is true then he felt it had a totalitarian impact, that it is a restriction on free speech.

Mayor Myers said this Resolution has his support. He suggested an amendment to include boards and commissions. He said there should also be an email policy statement, indicating that a particular email account may have to be made available if a request for it to be produced is received.

Councilor Cheney referred the Council to Article 32 of the New Hampshire Constitution. She told the Council not to worry about being able to contact their constituents.

Councilor Trefethen said if a constituent contacts a Councilor with an issue or complaint that has potential liability issues for the City, then the City Councilor is obligated to make the City Manager aware of it.

Councilor Scott wanted to make sure that this procedure does not interfere with the direct relationship that the Council has with their constituents, and that the constituents will not fear making a complaint because it might become known by others, and that their privacy is respected.

Mayor Myers said there were no changes in that at all.

Councilor McCusker asked for clarification; if they passed this and a question came up, would they have the right to access his computer? He said if this is what the Resolution means, then he is not in favor of it.

Mayor Myers said the Council would have to inform the City where the emails would be forwarded. If the Council chose not to do that, then the emails would not be forwarded. Councilor McCusker said there would be no risk involved if he didn't supply a second email.

City Manager Joyal said nothing is absolute. He said the emails could be manually forwarded right now. It is a risk the Council would have to take.

Councilor Callaghan said he would support this Resolution.

Mayor Myers said he would be coming before the Council with a Resolution to include boards and commission and housekeeping changes at a later date, when they are ready to go with that. He asked for a vote on the Resolution.

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

C. ORDINANCES IN 1ST READING-NONE

D. COUNCIL CORRESPONDENCE

13. COUNCIL MATTERS OF INTEREST

Councilor McCusker asked the Council to ask the City Manager beforehand the questions they have about his report, so that he can have an answer ready for the Council.



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Councilor Trefethen asked the City Manager or City Clerk about the August 12, 2008 Special Election for Ward 1 Councilor, and if the newly elected Councilor would be able to sit on the Council on August 13, 2008.

City Clerk Lavertu said there is a recount period until Friday, August 15, 2008, and the person elected would not be a Councilor until after that time period.

Mayor Myers spoke about the Parking Committee and their great work. They are looking at a couple of different scenarios, and are looking to report to the Council in mid-September, extending it from July.

The general consensus of the Council was to extend it to September.

14. ADJOURN

Councilor Trefethen moved to adjourn; seconded by Councilor Weston.