



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, October 22, 2008**
Meeting Time: **7:00pm**

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

Councilor Weston led the Pledge of Allegiance.

3. ROLL CALL

Present: Mayor Myers, Deputy Mayor Trefethen, Councilors Callaghan, Carrier, Dede, McCusker, Scott, Weston. Councilor Cheney arrived at 7:06.

Also Present: City Manager Joyal and City Clerk Lavertu.

4. PROCLAMATIONS – AWARDS

5. APPROVAL OF AGENDA

Deputy Mayor Trefethen asked to substitute Item 12.A.2. as a whole.

Deputy Mayor Trefethen made a motion to accept the Agenda with the one change; seconded by Councilor Callaghan.

Vote: 9/0.

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.

Jane Hamor, 13 Roosevelt Avenue, Member of the Arts Commission: She asked the Council to consider the Resolution regarding the Public Arts Acquisition Process. She said it would include a method to accept and track artwork owned by the City, for insurance purposes and also in the future, for being able to accept or reject artwork. She went over the background of the Resolution with the Council.

Edward Bleiler, 28 Isaac Lucas Circle: He started by informing the Council that he was not against the Waterfront development, but felt the City should proceed with caution. He referred the Council to the bridge to nowhere, otherwise known as the Washington Street Bridge. He read his statement that he read to the Cochecho Waterfront Development Advisory Committee on October 21, 2008. He said the City needed the answers to the problems with this site before the bridge should be built. He said as a Babson College student he learned that if you are losing your shirt, cut your losses. He predicted that the economy was going into a depression, not a recession, and this project will never be built. He said to stop it now before it turns into a disaster. He also asked why the bridge would cost 259% more than the City Council passed and authorized in 2006. He referred to Resolutions 165 and 166, regarding the Firefighters' contract. He said it was time to put a wage freeze on every department in the City. He said the total increase in cost is \$15,475,665 over a three year period; he said other additional costs were \$1,091,723, totaling \$16,563,388. He asked the Councilors to read the figures carefully and determine if the City can afford this in times of recession.



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Donald Medbery, 3 Covered Bridge Lane: He wanted to speak on several issues. First, the substantial reduction of real estate values. He said he had cautioned the Council not to spend, but to conserve. He referred to the Council's recklessness. He said the City Manager received not only a pay raise, but a bonus. He said it should be a pay cut for all \$100,000-plus City wage earners. He said new businesses won't come to Dover, but some may exit. He said as more companies start downsizing, the dumber the Council will appear. He referred to the SUR's cost overrun request, which Mr. Brissette exposed to the Council, as the perfect example of incompetence and arrogance. He said he is asking the citizens of Dover to take back the power, and demand of this group of sneaky big spenders full accountability. He asked how many times must they demand budgetary frugality from the City Manager and one-sided arrogant City Councilors, including the Mayor. He said the citizens must demand competent decision making, and if they don't produce it, they will continue an effort to replace every single one of the councilors who are guilty of negligence and incompetence, in spite of the Foster's Daily Democrat's endorsements. He said he hoped the community has seen enough of the paper's lack of conscience and morality. He spoke of the pay raises and the new contracts, and said he hoped the Council will stand up and say enough is enough, because we are headed into a recession.

Kimberly Schuman, 5B Elm Street, Member of the Arts Commission: She asked for the Council's support on the Public Arts Acquisition Process Resolution. She also said as a former student of Bud Falcione, she thought the Resolution for the Bud Falcione Scholarship Fund was a wonderful idea, and hoped that the Council would support that as well.

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

7. PUBLIC HEARINGS – None.

8. CITY MANAGER'S REPORT

City Manager Joyal said he had expected to wrap things up this week on the SUR issue. He needed some more information and will definitely have something for the Council next week, because he felt it had gone on long enough. He said with the fall season the City is getting ready to do the second round of crosswalk painting throughout the City. He informed the City of the official tax levy, which will be set at \$57½ million, \$7,400 less than what was allowed within the tax cap legislation, because the tax rate calculation was rounded to two digits. He said for this tax year the overall tax base reflects a 5.6% reduction in an average single-family home value. He wanted to point out that \$27 million in new commercial construction has come online, which is positive in shifting the balance between commercial and residential properties. He said the tax rate was set at \$21.10, with the average tax bill being \$5,770, a \$79 increase or 1.4% change over last year. He said of the \$79 increase, \$18 was attributable to the City, \$41 was attributable to the School, and \$19 was attributable to the increase that was passed on by the County. He said the tax bills will be mailed by the end of the month. The first half will be due December 1, 2008, and the subsequent payment due June 1, 2009.

Councilor DeDe referred to the crosswalks and asked if there had been any efforts to eliminate some of the crosswalks.



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City Manager Joyal said at this point no crosswalks have been targeted to be eliminated. He said the Transportation Advisory Commission hasn't gotten to it yet. He said they would be adding a few crosswalks by Woodman Park School, which were recommended by the Transportation Advisory Commission.

Councilor Scott asked what last year's tax rate was.

City Manager Joyal said it was \$19.63.

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

Vote: 9/0.

9. MINUTES

A. MINUTES FROM OCTOBER 1, 2008

B. MINUTES FROM OCTOBER 8, 2008

Deputy Mayor Trefethen moved to accept the Minutes; seconded by Councilor McCusker.

Vote: 9/0.

10. MAYOR'S REPORT

Mayor Myers said a lot of positive things happened over the past few weeks. He went to the official open house for the new SAU offices in the McConnell Center. He referred to the Auction fundraiser for the Mounted Patrol, and said it was a great night. He referred to the Dover Soccer and Dover Softball fundraisers, held to raise money for storage units and bathrooms at the fields. He spoke about the Cochecho Waterfront Development Advisory Committee Public Hearing held on October 21, 2008. He announced that on Saturday, November 1, 2008 he will be holding one of his "Coffee with the Mayor" sessions. He said it will be from 9:00 to 11:00 am at Café on the Corner, on the corner of Third Street and Central Avenue.

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

Vote: 9/0.

11. UNFINISHED BUSINESS

12. NEW BUSINESS

A. CONSENT CALENDAR

1. ASSEMBLY – SEACOAST LIBERTY

2. RESOLUTION - ARNOLD "BUD" FALCIONE SCHOLARSHIP FUND SPONSORED BY MAYOR MYERS BY REQUEST

3. RESOLUTION - CHANGE ORDER RECONDITIONING GRIFFIN WELL B08053 SPONSORED BY MAYOR MYERS BY REQUEST



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- 4. RESOLUTION - AWARD OF BID B09024 FOR SNOW PLOWING/HAULING SERVICES FOR CITY STREETS AND PARKING LOTS**
SPONSORED BY MAYOR MYERS BY REQUEST
- 5. RESOLUTION – ACCEPTANCE OF VARNEY BROOK LANDS LLC CONSERVATION EASEMENT**
SPONSORED BY MAYOR MYERS BY REQUEST
- 6. RESOLUTION: B09020 CONSTRUCTION OF NHDOT BRIDGE 136-123 WASHINGTON STREET OVER COCHECHO RIVER**
SPONSORED BY MAYOR MYERS BY REQUEST
- 7. RESOLUTION: AMENDMENTS TO McCONNELL CENTER LEASES**
SPONSORED BY MAYOR MYERS BY REQUEST

COMMITTEE REPORTS

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| 1. Appointments Committee – Mayor Myers | 8. Solid Waste Advisory Commission – Councilor DeDe |
| 2. Arena Commission – Deputy Mayor Trefethen | 9. Transportation Advisory Commission – Councilor Weston |
| 3. Arts Commission – Councilor McCusker | 10. Joint Building Committee – Councilor Cheney |
| 4. McConnell Center Committee – Councilor DeDe | 11. Recreation Advisory Board – Councilor Carrier |
| 5. Planning Board – Deputy Mayor Trefethen | 12. Coast Bus |
| 6. Cable Access Committee – Councilor DeDe | 13. Joint Fiscal Committee – Councilor Trefethen |
| 7. School Board Liaison – Councilor Callaghan | |

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

Councilor Callaghan asked to pull 12.A.7.

Deputy Mayor Trefethen asked to pull 12.A.1.

Councilor McCusker asked to pull 12.A.5.

Mayor Myers asked to pull 12.A.6., because it needed to be referred to a Public Hearing on November 12, 2008.

Mayor Myers asked for a Roll Call Vote on the remaining items of the Consent Calendar.

Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for 12.A.1. approval; seconded by Councilor DeDe.

Deputy Mayor Trefethen said this assembly was political in nature and was going to be occurring in front of businesses that would give the impression to people passing by that the businesses support this political way of thinking. He said most of these assemblies occur on the islands in the lower square, causing no associations with the businesses. He asked if the Council could amend this request.

City Manager Joyal said the Council could place conditions on it, but they have to be fair and equal to everybody.

Deputy Mayor Trefethen said he just wanted to move the location to any place on Central Avenue that is not in front of a business.



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City Manager Joyal said that it could be amended because they were asking to set up a table in front of Earcraft Music.

Deputy Mayor Trefethen made a motion to amend the location to Central Avenue, but not in front of any individual business; seconded by Councilor DeDe.

Councilor Scott asked where they wanted to demonstrate.

Mayor Myers said in front of Earcraft Music.

Councilor Scott asked if Earcraft Music objected to this.

City Manager Joyal said yes. He said they received a letter and email from Earcraft Music.

Councilor Scott asked if it was in conflict with the Free Speech Amendment.

Mayor Myers said it wasn't, because they were asking to set up a table for informational purposes, but it does not limit someone from walking in front of the business.

Councilor Weston asked where he would go.

Deputy Mayor Trefethen said he didn't want to tell him where to move it.

Mayor Myers said the bridge or sidewalk in front of the courtyard area.

Councilor Cheney said she read the letter and she would support the business' request.

Councilor Carrier said he would also support the business' request.

Mayor Myers asked for a vote on the amendment.

Vote: 9/0.

Mayor Myers asked for a vote on the amended request.

Vote: 8/1; Passed. Councilor DeDe was opposed.

Deputy Mayor Trefethen moved for 12.A.5. adoption; seconded by Councilor DeDe.

Mayor Myers said Councilor McCusker was recused from this Resolution and asked him to leave the Council table.

Councilor Scott referred to the bottom of the Resolution, and asked for clarification on the statement "Approved as to Funding, Daniel Lynch.," and asked to add that this requires no additional funding.

Mayor Myers said if the Council doesn't see an account number attached to it that they could just assume that it didn't require any additional funds.

Councilor Scott asked if there was no money involved.

Mayor Myers said the Council was not appropriating any funds.

Vote: 8/0. Councilor McCusker recused.

Deputy Mayor Trefethen asked 12.A.6. to be referred to a Public Hearing on November 12, 2008; seconded by Councilor DeDe.

Vote: 8/0. Councilor McCusker was absent from the Council Chambers.

Deputy Mayor Trefethen moved for 12.A.7. adoption; seconded by Councilor Callaghan.

Councilor Callaghan asked how the rates were developed in the amendments.

City Manager Joyal said the Budget that was approved by the Council anticipated all the rates.

He said this was more or less housekeeping on existing leases that the City has in place.

Councilor Callaghan asked how much of an increase it was from FY08.

City Manager Joyal said he couldn't answer that right now.

Mr. Bannon (Recreation Director) said the item that went up was the cost for maintenance.



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Councilor Callaghan said the School Department is charged the highest rate, and asked if the City was trying to do anything to lower those rates.

City Manager Joyal said some of the organizations leasing from the City would be subsidized, and the subsidy is built into the rent being charged. He said he would prefer a separate line item saying that it is a subsidy, but in order to balance out and to cover the costs of the McConnell Center, the square foot rentage charge goes to the three City departments. He gave the example of the Dover Children Center, which should show a subsidy in Human Services in the budget. He said another organization that has a subsidy is the Dover Adult Learning Center, which should show a subsidy for Education in the budget. He said it wasn't set up that way in the budget. He said it was intended that it would be absorbed by the City users.

Councilor DeDe said the utilities are being changed so that the utilities' changes to their charges all take place with the commencement of the new budget year, as opposed to having it take place on the anniversary of the lease signature date.

Councilor Cheney referred to the first page of the Resolution; where it says the Committee "approved", she felt it should say the Committee recommends this lease agreement. She said it was the Council who authorizes it. She wanted to make an amendment to change "approved" to "recommended".

Councilor DeDe said the Resolution was to empower the City Manager to execute the McConnell Center leases. He said only the City Manager can execute a lease. The Committee makes a recommendation. He said the language could say "advise the approval."

Councilor Cheney said she would accept that amendment.

Councilor DeDe wanted to make the amendment to change to "recommends the approval;" seconded by Councilor Cheney.

Mayor Myers asked for a vote on the amendment.

Vote: 9/0.

Councilor Scott asked why the Wentworth Douglass Hospital was being charged half the rate of the Police Department, Recreation Department, and School Department.

City Manager Joyal said he explained that the City was making up for subsidies. He said Wentworth Douglass Hospital was paying the standard rental charge.

Councilor Scott asked if he could make an amendment that Wentworth Douglass Hospital pay the same rent as the City Departments.

City Manager Joyal said the City had an agreement with Wentworth Douglass Hospital. He said the only thing that can change is the utility agreement, which has to be based on a formula from the prior year's utility costs, which is \$5.64.

Councilor Scott said he wasn't concerned about the utility costs. He asked if it was already fixed, why it was being brought before the Council.

City Manager Joyal said the Resolution was making sure that all of the leases allow for the adjustment to occur on July 1st.

Councilor Scott said he didn't have a problem with that, but he had a problem with the basic rent.

Councilor DeDe said certain participants could not afford to rent in the McConnell Center. He said there is going to be a time in the future where the amount that the City is paying will decrease because the debt service will disappear. He said the leases were written with that taken into consideration, and it was fully explained to the Council at the time the original leases were introduced.



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Councilor Scott said he didn't think it was fair. He asked if there was a second to his friendly amendment that Wentworth Douglass pays the same rent as the City.

Councilor Callaghan seconded the motion.

Vote: 2/7; Failed. Councilors Callaghan and Scott voted in favor.

Mayor Myers asked for a Roll Call Vote on the amended Resolution.

Roll Call Vote: 8/1; Passed. Councilor Scott was opposed.

B. RESOLUTIONS

1. RESOLUTION: COMCAST FRANCHISE FEE SPONSORED BY MAYOR MYERS

Deputy Mayor Trefethen moved for its adoption; seconded by Councilor DeDe.

Mayor Myers said he wanted this Resolution as a follow-up to the presentation by Brian Christensen, from Comcast. It was discovered that the formula included revenues generated from the Home Shopping Network and other informational commercials, and raised the rate to 3.25%. He said the Resolution would authorize the City Manager to renegotiate on that one aspect with Comcast.

Deputy Mayor Trefethen asked if the contract could be changed to say "3% on services only," as opposed to total revenue.

City Manager Joyal said Comcast and other cable companies work with one of two methodologies for generating franchise fee calculations: a) Gross annual revenues or b) net revenue from bills. He said that is how the system is set up and they don't agree to anything else, because they don't have to. He said the City chose the gross annual revenues method, because it was expected that the customer would see the percent that was described, and the other customers, who bought from the Home Shopping Network, would pay more. He said the cable company has presented the City with information that they can prorate that amount, and pass it back on to the cable subscriber, and not the advertiser and not the home shopper. He said that wasn't understood when the contract was negotiated. He said the Resolution allowed him to renegotiate with Comcast and change the wording to what was expected.

Deputy Mayor Trefethen asked, if the Resolution was approved, if it was authorizing the City Manager to negotiate the change with this aspect of the contract, so that the customer will pay a 3% franchise fee for their service.

City Manager said to the customer's cable television service, yes.

Deputy Mayor Trefethen said his preference would be the second methodology.

Mayor Myers said the first part of the Resolution was for the City Manager to further investigate the implementation of the cable franchise fee. He said the second part of the Resolution would put a seal of 3% for the remainder of this year, and the other nine years of the contract it would be 2.75%.

Councilor Scott said the franchise fee is a tax, and he would like there to be no franchise fee.

Mayor Myers said it was a user fee. He said the City will use it to upgrade the system, equipment, and add another channel.

Councilor Callaghan asked if the 2.75% was already in the contract.



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Mayor Myers said for years 2 – 10.

Councilor Callaghan said the language “if possible” should not be used.

Mayor Myers said he did ask the Comcast representative if they were amenable to recalculating how they do this. He said this is a contract and we have to consider the other party in this contract, and that is why the “if possible” is there.

Councilor Cheney said she would support this Resolution. She said it might be as simple as redefining the words in the contract.

Mayor Myers said it might be as simple as that, but Comcast might not be willing to change the definitions just for Dover.

Deputy Mayor Trefethen said a “no” vote would mean the City will continue to be charged more than the 3% for the remainder of this year and more than 2.75% in future years, and a “yes” vote would be an attempt to correct that.

Councilor Scott asked if there was something in the contract that says that Dover will get audited data.

Mayor Myers said yes.

Roll Call Vote: 9/0.

2. RESOLUTION: COLLECTIVE BARGAINING AGREEMENT DPFOA SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved to table this Resolution to November 12, 2008; seconded by Councilor Weston.

Vote: 7/2; Passed. Councilors DeDe and McCusker opposed.

3. RESOLUTION: COLLECTIVE BARGAINING AGREEMENT IAFF SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved to table this Resolution to November 12, 2008; seconded by Councilor Weston.

Vote: 7/2; Passed. Councilors DeDe and McCusker opposed.

4. RESOLUTION: PUBLIC ARTS ACQUISITION PROCESS SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved for its adoption; seconded by Councilor DeDe.

Mayor Myers said the Council received a nice explanation during Citizen’s Forum on this Resolution. He asked if the Library collection was part of this, because he understood it wouldn’t be, but he didn’t see the language in the Resolution.

City Manager Joyal said it wasn’t in there. He said another concern was what “art” was defined to be. He said there are plaques, pictures of councilors, and he didn’t believe it was the intent of the Arts Commission to replace all those with artwork. He felt it should be clarified.

Councilor DeDe said he just saw it as a process of acquiring art and controlling inventory.

City Manager Joyal asked if a visiting artist presents at the Library or McConnell Center, if they would need to contact the Arts Commission.



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Councilor Cheney said she was concerned with the approval process. She asked if there was anything done that would not be approved with this new policy, and would like to see that inventory list.

Mayor Myers said the Resolution does not necessarily deal with just the new items coming to the City. He said in the latter sections it mentions the Arts Commission making recommendations for possibly resiting specific pieces of art. He said there were things that were specifically left to the Library.

Councilor Cheney said she was in favor conceptually.

Deputy Mayor Trefethen said the Arts Commission did a lot of great work and their heart was in the right place. He said there were several places where the language needed to be changed. He suggested a workshop.

Mayor Myers suggested the Council get in touch with Harvey Turner, Chairman of the Arts Commission, with specific concerns.

Councilor Callaghan asked if there was art inventory for items that are loaned to the City. City Manager Joyal said that was part of the Resolution that needs to be redefined.

Mayor Myers said the Resolution was heading down the right path.

Councilor Weston made a motion to table the Resolution; seconded by Councilor Callaghan.

Vote: 8/1. Councilor DeDe opposed.

C. ORDINANCES

**1. ORDINANCE: CHAPTER 166, VEHICLES AND TRAFFIC
(TO BE REFERRED TO PUBLIC HEARING ON NOVEMBER 12, 2008)
SPONSORED BY COUNCILOR WESTON**

Deputy Mayor Trefethen moved to be referred to a Public Hearing on November 12, 2008; seconded by Councilor Weston.

Vote: 9/0.

**2. ORDINANCE: CHAPTER 137, POLITICAL EXPENDITURES AND
CONTRIBUTIONS
(TO BE REFERRED TO PUBLIC HEARING ON NOVEMBER 12, 2008)
SPONSORED BY MAYOR MYERS BY REQUEST**

Deputy Mayor Trefethen moved to be referred to a Public Hearing on November 12, 2008; seconded by Councilor Cheney.

Vote: 9/0.

13. COUNCIL MATTERS OF INTEREST

Deputy Mayor Trefethen wanted to address the comments brought up during Citizen's Forum regarding the environmental issues at the Waterfront Development site. He said some of the comments were correct. He said the proposed developer for the site has done a number of test borings, and has no major concerns. He said they didn't find anything. He said he wasn't sure



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the comments about the old City dump were accurate. He said the area that was the City dump is not part of the Waterfront Development site.

Councilor DeDe said the soil analysis was 99.5% accurate. He said the allegation that the City will have a \$20 million liability is totally off the wall. He said in the contract it stipulates that the City is planning on \$500,000, with a failsafe number of \$800,000 that triggers the City's right to back out of the whole thing if that were to occur. He said there were a lot of Grimm's Fairy Tales presented by Mr. Bleiler this evening, and he does not have his facts correct.

Councilor Scott asked if the City has the right to back out of the deal with Dickenson if they don't pay the City \$1 million. He said it was his understanding that Dickenson got the property over a year ago. He asked if the City has received the \$1 million.

Mayor Myers said the property hasn't changed hands yet.

Councilor Scott asked when the City was going to get the \$1 million, because it was his understanding that Dickenson has had control of the property for over a year, and the \$1 million has a cost of capital of \$60,000 per year.

Mayor Myers said Dickenson has not had control of the property, other than the ability to do a variety of tests.

Councilor Scott asked if it could be renegotiated at this point.

Mayor Myers said no, because it is being held up by the City. He said it was erroneous to say that Dickenson was keeping \$1 million and has control of the property. He said there will be another Cochecho Waterfront Development Advisory Committee meeting on November 3, 2008 at 5:30 pm in Council Chambers, and there will be a period for public comments to address these issues.

Councilor Cheney wanted to note that on November 3, 2008 at 6:30 pm, the Woodman Park School will be having a celebration on the renovations.

Councilor Weston asked the City Manager for an explanation, on November 12, 2008, on the increase in costs for the bridge construction from the Resolution in 2006 to the current one that is going to Public Hearing.

14. ADJOURN

Deputy Mayor Trefethen made a motion to adjourn; seconded by Councilor Callaghan.

Vote: 9/0.