



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, January 14, 2009**
Meeting Time: **7:00pm**

Audio and DVD recording of this meeting failed

1. MOMENT OF SILENCE

2. **PLEDGE OF ALLEGIANCE** –The Pledge of Allegiance was led by Councilor Carrier.

3. **ROLL CALL - Present:** Mayor Myers, Deputy Mayor Trefethen, Councilors Callaghan, Carrier, Cheney, McCusker, Scott, and Weston. **Absent:** Councilor DeDe
Also Present: City Manager Joyal, City Attorney Krans and City Clerk Lavertu.

4. PROCLAMATIONS – AWARDS – NONE

5. **APPROVAL OF AGENDA-** Deputy Mayor Trefethen noted that 2 of the items being substituted were already in the packet. The Third, Political Expenditures is at the Councilors desks and is also being substituted in whole. A legislative report is being submitted by Councilor DeDe. Finally, items 12A3 and 12A7 are being pulled from the agenda. Motion to approve the agenda as changed by Deputy Mayor Trefethen seconded by Councilor Weston passed 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.

Don Medbury, 3 Cover Bridge Lane: Asked the Council why it has taken so much time to change the political expenditures rules. Fosters runs a campaign supporting certain candidates. For the Special election they abused media power and had unbalanced coverage. This resolution should not be considered. Secondly, DeDe garbage law. I received a small postcard in the mail that that property owners next to an area with garbage left out are responsible for cost of removal. Community Services should get a proof reader. I see bins left out long after approved time. This is a stupid law. Finally, the shoveled sidewalks law needs to be addressed because the disabled and elderly can not afford to have this service and expect their taxes to pay for these types of services. Councilors look down at us from the North End and Councilors should spend time on resolutions that make the community better.

Lee Skanner, Knottsville Dr: Here to discuss the County budget which is a great victory for taxpayers as it went up 2.8% however it is a proposed budget. Most line items have constituents that are impacted. If you eliminate these line items then the constituents will appear and write letters to the editors and be at the public hearing tomorrow. Humane Society, Meals on Wheels, job losses are all impacted. Their budget went up a lot more every year and with just 1 year of slow down they are in financial chaos. I will be at the public hearing tomorrow to encourage the County to limit spending to what our incomes are doing. I also encourage the Councilors to go as tax payers and speak out as stewards of City budget.

Anna Boudreau, 9 Northam Dr: Here to discuss County budget as well. Local budget for Cooperative Extension eliminates \$200,000. This impacts 4 youth programs, master gardening program, water resource protection, food and nutrition safety training and cooperative extension which has 300 volunteers. I volunteer on the Open Lands Committee and many grants were obtained because of the assistance of the Cooperative Extension.



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This tax would come to \$5.00 per household in Dover and is a cost effective program and a good return on investment.

John Scruton, 99 Sixth St: for 30 years I have ordered trees through Cooperative Extension and have taken many classes. I also use their recommended slow grow grass. They also give answers on low maintenance.

Harvey Turner, 4 Auburn St: May not be here for item 11-4. With approval of the Arts resolution will have advisory capabilities for the City. Look forward to answering any questions you have.

Sharon Reynolds: Attended TAC last month and have worked on Barrington Committees. Look forward to possibly joining TAC.

Mary Heberd, Spruce Lane: Upset about Appointments Committee. Rick wants to be reappointed to DUC. DeDe and Myers are preventing this. He brings seniority, experience and challenges the status quo. He was only absent from 2 consecutive meetings and missed 2 meetings that did not have a quorum. The rules state 4 consecutive meetings must be missed before the Chair notifies the City Council. Gary Green contacted the Mayor. This was not discussed in Executive Session of the DUC. Discussions about behavior issues are not true. Attorney Krans inserted himself into this matter and Rick claimed that the City Attorney lied. Chair Green did not like hearing Krans lied. The rules state that the City Clerk must notify the applicant and we never received a letter. We also asked her what the process would be since he was not renewed and she said she did not know as it had not happened since she has been here. 2 interviews were conducted and Rick was ambushed about trying to be reappointed. DeDe was uncomfortable and there is no actual proof, no documentation in either minutes or audio. Chair Green is hand picking candidates for DUC. I urge you not to participate in this process as he should not be treated this way. Reappoint Rick.

Peter Schmidt, Ward 1 and 2 State House Representative: Hope people will come to County budget hearing tomorrow night. Not a zero sum game. Eliminated expenditures will get passed onto Cities and Towns. These services are not easily removed.

Linda Merullo, Sandy Lane: Speaking for those who can't speak- the animals of Dover at the Cocheco Valley Humane Society. Please adopt or give money to them.

7. PUBLIC HEARINGS

A. RESOLUTION: ESTABLISHMENT OF RECREATION FACILITIES CAPITAL RESERVE FUND

SPONSORED BY MAYOR SCOTT MYERS BY REQUEST

Seeing no one wishing to speak this Public Hearing was closed.

B. RESOLUTION: ESTABLISHMENT OF FIRE & RESCUE FACILITIES CAPITAL RESERVE FUND

SPONSORED BY MAYOR SCOTT MYERS BY REQUEST

Seeing no one wishing to speak this Public Hearing was closed.



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C. RESOLUTION: ESTABLISHMENT OF POLICE FACILITIES CAPITAL RESERVE FUND

SPONSORED BY MAYOR SCOTT MYERS BY REQUEST

Seeing no one wishing to speak this Public Hearing was closed.

D. ORDINANCE: CHAPTER 3, ARTICLE IV, BOARDS AND COMMISSIONS – PARKING COMMISSION

SPONSORED BY MAYOR SCOTT MYERS

Seeing no one wishing to speak this Public Hearing was closed.

E. ORDINANCE: CHAPTER 79, CITY PROPERTY

SPONSORED BY COUNCILORS DOUG DEDE AND ROBERT CARRIER

Don Medbury, 3 Coverbridge Lane: There are contradictions in this Ordinance. Councilor DeDe missing tonight. As the sponsor should explain details. I would like Councilor Carrier to go line by line to discuss changes as co sponsor. Mayor Myers stated that no comments can be made at this time by Councilors.

F. ORDINANCE: CHAPTER 137, POLITICAL EXPENDITURES AND CONTRIBUTIONS

SPONSORED BY MAYOR MYERS BY REQUEST

Seeing no one wishing to speak this Public Hearing was closed.

8. CITY MANAGER'S REPORT- 1. There was an inquiry about tax collection. The due date was 12/1/08. as of 12/31 29 million billed and 1.6 million not collected (approximately 5.7%). Compared with last year which was 7.2 % uncollected. Motor vehicles and real estate activity are trending down. Motor vehicle registrations have decreased by 3% and 474 less vehicles=\$15,000 less revenue. Construction activity is the same level of activity in terms of numbers but projects are smaller. Foreclosures have doubled in past calendar year: year 06 was 9, year 07 was 24, and year 08 was 52.

2. Ice storm clean up: City wide clean up not completed because of snow. Trying to get additional funding for Spring clean up. Any business of individual impacted by the storm should contact the Fire Department as some assistance may be available.

3. Snow removal underway. See page 21. By the end of December we had 10 different weather events with a total cost of \$177,000. The total snow budget is \$293,000 so I expect snow overages.

4. Dover discussions: Chance for the public to come out and informally meet with the City manager. It will be next Thursday at 6:30 pm in the McConnell Center cafeteria.

5. Comcast: Franchise agreement had a requirement to extend cable service to residential areas in the city. Gulf Rd, Bear Rd, three Rivers Farm, Jewell Rd, and Glenn Hill Rd in particular were to be done by November 08. This has not happened. We will send a letter to Comcast about the noncompliance and may then initiate failure to comply proceedings. Will need a public hearing for this.

Councilor Callaghan discussed page 10/37-Willand Pond Information. There was a January meeting with DES at Pease. It was requested that Dean Peschel come up and discuss this meeting. Dean Peschel said that the meeting was called by DES for high water level. The consultant presented alternative to allow water flow to Salmon Fall River. Sewer line, water line,



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and storm water detention pond caused blockages. Wetlands permit expiring soon and additional review of connector road needs to take place. Councilor Callaghan stated that the DES confirmed that permitting was correct. Dean Peschel stated that the elevation of pond needs to be determined. 188 feet is being suggested however the proposed solution will not get elevation to 188 feet but it will help.

Councilor Weston stated she had received emails about the Franchise agreement and requested the City Manager give examples of default options. City Manager Joyal stated that he would not want to give examples of legal strategy however the contract was specific. We hope to resolve this before it goes too far. Councilor Weston asked about page 23/37-bid report. Are the dates of masonry correct? and does it authorize spending? City Manager Joyal stated no, it is just acknowledging I gave you report.

Councilor Cheney wanted everyone to know that the EPA is meeting on January 29th for public information meeting on Tolend.

Mayor Myers requested that Arena fund show up separately. Motion to accept City managers report by Deputy Mayor Trefethen seconded by Councilor McCusker passed 8/0

Mayor Myers requested that we suspend the rules and move to the Arts resolution as several people are waiting. Motion to suspend by Councilor Cheney seconded by Councilor Weston passed 8/0 roll call vote

9. MINUTES

A. MINUTES

1. **December 10, 2008**

2. **December 17, 2008**

Motion to accept minutes by Deputy Mayor Trefethen seconded by Councilor McCusker.

Councilor Cheney requested that second sentence be removed on page 3/6 of the 12/17 minutes. Motion to approve with changes by Deputy Mayor Trefethen seconded by Councilor Callaghan passed 8/0.

10. **MAYOR'S REPORT** There was a holiday reading with Dover Main Street.

The McConnell Center Advisory Board needs a member from the Recreation Committee.

Brenda Smith has agreed to sit on that Board.

I met with Congress woman Carol Shea Porter to discuss projects that may qualify for stimulus funds: streets, highway, bridge, schools, transportation, and infrastructure/energy savings would most likely be considered. There was also a follow up on dredge money and she is fighting for our share of federal money.

There was a dedication of the Butterfield gym last Saturday.

DBIDA has gone through the applications for the Economic Development Position and are planning in person interviews.

The County budget public hearing is tomorrow night

Councilor Weston asked how many applications had been received and Mayor Myers stated 30- I did not sit on the original interview but will sit for the full board interviews. Motion to accept by Deputy Mayor Trefethen seconded by Councilor Cheney passed 8/0.



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11. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2nd READING

1. ORDINANCE: CHAPTER 3, ARTICLE IV, BOARDS AND COMMISSIONS – PARKING COMMISSION (TO BE SUBSTITUTED BY AMENDMENT) SPONSORED BY MAYOR SCOTT MYERS

Original and substituted versions were part of Friday packet. Motion to substitute by Deputy Mayor Trefethen seconded by Councilor Weston. The membership was changed to 7 members. Motion by Trefethen seconded by Weston to make membership 2 Dover businesses passed 8/0. Councilor Callaghan suggested Dover property or business owner. Deputy mayor Trefethen suggested Dover commercial property or business owners. Councilor McCusker thought it should be for taxpayers. Amendment to change to Dover commercial property or business made by Deputy Mayor Trefethen seconded by Councilor Weston. This amendment passed 5/3 with Councilors Cheney, Callaghan and Scott opposed.

Councilor Weston felt that it should be an even number membership and recommended 6 members. 1. Change membership to 6 members and change breakdown accordingly.

Councilor McCusker state that he was in favor of 9 and it went to 7. Run a risk of some people not attending and having a lack of quorum.

Councilor Carrier also stated that he liked 9 members. Mayor Myers felt he could support 6 or 7 as it was more important to start the committee. Amendment passed 6/2 with McCusker and Carrier opposed.

Councilor Weston suggested that the language 'may or may not be Dover residents' be struck, seconded by Councilor Cheney.

Councilor Callaghan felt that who lives here should determine membership.

Councilor Cheney stated that she favored it must be a resident unless overridden by the City Council and this was supported by Councilor Scott.

Mayor Myers stated that he did not agree -5 have to be residents is clear and by recognizing this language it gives direction to future City Councils.

Councilor McCusker stated that there are many active business owners who do not live in Dover but may actually have more at stake and will look out for the best interest of downtown.

Excluding them sends a poor message and shows we are not interested in their opinions.

Councilor Cheney disagreed and stated she wants Dover residents on the committee. Councilors Callaghan and Weston both stated that they could still attend meetings and speak at Citizens Forum where they would be heard.

City Attorney Krans stated that Chapter 3-52 D needs to be addressed along with this Ordinance. Deputy Mayor Trefethen stated that some Councilors seem to now only want Dover residents however that was not the consensus a week ago.

City Manager Joyal suggested that they focus on what they want to do and not worry about word smithing. Mayor Myers wanted an unbinding vote an how many want this to be 100% Dover residents without exception-2: Councilors Scott and Callaghan. How many want 100% resident with stipulation that 1 or 2 own a business or property-none. How many want 6 members 4 residents, 2 commercial property business owners in Dover with flexibility of 3-52D-5 responded. Mayor Myers stated that it remains an option that they may not be a resident.

Motion to strike ii passed 7/1 with Callaghan opposed.



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2. ORDINANCE: CHAPTER 79, CITY PROPERTY SPONSORED BY COUNCILORS DOUG DEDE AND ROBERT CARRIER

Motion to approve by Councilor Carrier seconded by Councilor Weston. Councilor Carrier stated major change is use of auditorium and conference rooms in City Hall. This would help us get revenue. The rest of the changes are housekeeping in nature. City Attorney Krans stated the initial request was for removing the restriction of use of the auditorium for political events. The naming of a building is the responsibility of the City Council after a public Hearing. The tax lien list is provided annually to the City Council and the City Manager recommends whether we should sell.

Councilor Weston had questions on; private work discussed on page 4/13. City Manager Joyal explained that 1 example was after the floods we sent our vacuum truck to assist and it was rented by property owner. Fee is set by Council. Only exception is Fleet Services because their tools are kept in the City garage.

Councilor Weston then questioned surplus discussed on page 5/13. City Manager Joyal gave an example of bicycles.

Councilor Callaghan had questions concerning naming on page 5/13. What about park, conservation land easements? Amendment by Councilor Callaghan to add City real property seconded by Councilor Cheney passed 8/0. Discussion then continued about the definition of appraiser and when a waiver would be allowable.

Motion by Councilor Cheney to suspend rules to finish agenda seconded by Councilor Scott passed 5/3 with Councilors Callaghan, McCusker, and Trefethen opposed.

After discussion continued about Councilor Scott called for a vote seconded by Councilor Callaghan failed 3/5 with Councils Callaghan, Cheney, and Scott in favor. Deputy Mayor Trefethen made a motion to table to workshop seconded by Carrier passed 8/0

B. ORDINANCES IN THE 3rd READING - None

C. ORDINANCES IN THE 4TH READING

- 1. ORDINANCE: CHAPTER 137, POLITICAL EXPENDITURES AND CONTRIBUTIONS (TO BE REMOVED FROM TABLE AND SUBSTITUTED BY AMENDMENT)
SPONSORED BY MAYOR SCOTT MYERS BY REQUEST**

D. RESOLUTIONS

- 1. RESOLUTION: ESTABLISHMENT OF RECREATION FACILITIES CAPITAL RESERVE FUND
SPONSORED BY MAYOR SCOTT MYERS BY REQUEST**



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- 2. RESOLUTION: ESTABLISHMENT OF FIRE & RESCUE FACILITIES CAPITAL RESERVE FUND**
SPONSORED BY MAYOR SCOTT MYERS BY REQUEST
- 3. RESOLUTION: ESTABLISHMENT OF POLICE FACILITIES CAPITAL RESERVE FUND**
SPONSORED BY MAYOR SCOTT MYERS BY REQUEST
- 4. RESOLUTION: PUBLIC ARTS ACQUISITION POLICY (TO BE REMOVED FROM TABLE AND SUBSTITUTED BY AMENDMENT)**
SPONSORED BY MAYOR SCOTT MYERS BY REQUEST

Mayor Myers requested that we suspend the rules and move to the Arts resolution as several people are waiting. Motion to suspend by Cheney seconded by Weston passed 8/0 roll call vote. Motion to adopt by Trefethen seconded by McCusker passed 8/0.

Mayor Myers stated that the original resolution and the substituted language were given out in the packet on Friday. This resolution has been before the City Council several times for revision. An amendment was suggested by Mayor Myers: page 4/5 proposed Schools, Diver library and interior of leased space located within city buildings. Motion made by Trefethen seconded by Weston. Library has an extensive collection of their own. The City also has leased space and we can not control their interior walls. Amendment passed 8/0. Councilor Cheney thanked everyone for their work on this and questioned page 5/5 are possible for care and handling. Mayor Myers explained that 1 is advisory on accepting the other is maintenance. Resolution passed 8/0 as amended.

12. NEW BUSINESS

Motion made by Deputy Mayor Trefethen to suspend rules to complete time sensitive portions of the agenda seconded by Councilor Carrier passed 8/0.

A. CONSENT CALENDAR

The consent calendar was amended to include 12a 1, 12a 2, 12a 4, 12a 6 and 12b 2 passed 8/0.

- 1. RAFFLE – St. Mary’s Academy**
- 2. TAG – Dover Baseball**
- 3. RESOLUTION: ACCEPTANCE OF EXTENSION OF WOODLAND ROAD-pulled**
SPONSORED BY MAYOR SCOTT MYERS BY REQUEST
- 4. RESOLUTION: B09024 ADDITIONAL VENDORS AS NEEDED FOR SNOW PLOWING/HAULING SERVICES FOR CITY STREET/PARKING LOTS**
SPONSORED BY MAYOR SCOTT MYERS BY REQUEST
- 5. RESOLUTION: B08039 ELECTRICAL SERVICES CONTRACTOR YEAR 2 RENEWAL**
SPONSORED BY MAYOR SCOTT MYERS BY REQUEST



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6. RESOLUTION: B09034 COCHECO RIVERBANK RESTORATION CHANGE ORDER #1

SPONSORED BY MAYOR SCOTT MYERS BY REQUEST

7. RESOLUTION: AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH EASTER SEALS ADULT DAY PROGRAM-pulled

SPONSORED BY MAYOR SCOTT MYERS BY REQUEST

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 | 12. Recreation Advisory Board |
| 6. Cable Franchise Negotiations Committee | 13. Coast Bus |
| 7. School Board Liaison | |

B. RESOLUTIONS – NONE

1. RESOLUTION: SETTING OF PROPERTY TAX VETERANS CREDIT FOR FY2010.

SPONSORED BY DEPUTY MAYOR DEAN TREFETHEN

2. REPROGRAMMING OF UNEXPENDED BOND PROCEEDS – CIP APPROPRIATIONS FROM FY2000 THROUGH FY 2008 PROJECTS

SPONSORED BY MAYOR SCOTT MYERS BY REQUEST

C. ORDINANCES IN 1ST READING - NONE

D. COUNCIL CORRESPONDENCE

13. COUNCIL MATTERS OF INTEREST

Councilor Callaghan remarked on the recent Appointments Committee meeting and the non-reappointment of DUC Vice Chair. The vote was 2:1 to not reappoint and Councilor Callaghan was opposed. He requested that people please listen to the audio out on the web.

Motion to adjourn by Deputy Mayor Trefethen seconded by Councilor Weston passed 8/0

14. ADJOURN

**Minutes were revised at the 1/28/2009 meeting to add letter initially read by Mary Heberd
Letter below**

Mary Hebbard, 97 Spruce Lane, Dover NH
Remarks to City Council on Jan. 14, 2009 during Citizens Forum

I ask your indulgence... I may go a tad over my time...

I'm rather upset about something. One of your agenda items is a recommendation from the Appointments Committee to appoint Ed Spuler to the Dover Utilities Commission (or DUC) as an alternate member, and elevate new DUC member Marty Coyle from an alternate to the regular position currently held by my husband, Rick.

Rick wants to be reappointed to his position on the DUC, but Mayor Myers and Councilor DeDe have collaborated with DUC Chairman Gary Green, as the facts show, to prevent Rick's reappointment.

Rick has been on the DUC for six years, and last July was **unanimously re-elected** Vice Chairman by its members. He has 2nd most seniority and brings extensive construction knowledge and experience to the group, which no other member has.

Rick is a proactive individual. He asks a lot of questions, challenges the status quo, suggests creative, more efficient methods and always makes sure that citizens who come before the board are properly represented and treated fairly.

Rick was absent from 2 consecutive DUC meetings, in Dec 07 & Jan 08, due to a pending lawsuit against the City and former Police Captain Gary DeColfmacker. There was no Nov 07 meeting due to lack of quorum and no Feb 08 meeting due to a holiday.

Rick resumed his duties at the March 08 DUC meeting and is still serving as Vice Chairman. According to DUC rules, a member must miss 4 consecutive regularly scheduled meetings before the Chair notifies the **City Council**.

Unknown to Rick at that time, Chairman Green reported Rick's absences to Mayor Myers, along with some **alleged** "behavioral issues". By Green's own admission, Attorney Krans instructed Green to contact the Council about the absences, but Green did not do that, he only contacted the Mayor, **thereby violating DUC rules.**

Chairman Green deliberately chose not to speak with Rick about the absences or any alleged "behavior concerns" after the March meeting, nor did Green address this matter in executive session with the DUC members as he should have, **which violates Robert's Rules, Chapter XX**, that specifies how to address behavior of members within the society.

Green told Myers that Rick was "disruptive in meetings and using inappropriate language." This is categorically not true. Green's statements are *his* spin on something that happened in a DUC meeting in the fall of '07.

Attny Krans inserted himself into the LeBlanc issue which was being handled by the DUC, and Krans made some statements to the DUC about his involvement in the matter. Rick subsequently found out that Krans' statements were untruthful and that Krans had directly lied to the DUC.

Chairman Green has been actively soliciting and hand picking people to be on the DUC, including Mr. Spuler. Mr. Spuler actually interviewed for the DUC with the Appointments Committee last week on the 7th. Chairman Green has been courting Mr. Spuler since last fall but because of his work commitments, Mr. Spuler could not begin serving until January 09.

During the interview, Mr. Spuler said the reason he wanted to serve on the DUC is that Green asked him to, and Spuler admitted he had no idea what the DUC actually does or even when it meets. Does it make sense to get rid of someone experienced and knowledgeable, like Rick, for someone who admittedly knows nothing about the DUC?

It should disturb you that two members of this Council are trying to remove Rick from the DUC for improper reasons... ***again***. Myers and DeDe are very smug in their belief they are *justified* in treating people this way, that they can subvert the process and manipulate it to suit their agenda without just cause... *and they will get away with it...* **UNLESS THE REST OF YOU GOOD COUNCILORS STOP THEM.**

I ask you not to participate in councilor DeDe and Myers' attempt to hijack the process and unseat Rick from the DUC. Rick is dedicated... sees over the horizon... cares about Dover.. and would like to continue serving on the DUC. I'm asking one or more of you councilors to make a motion to reappoint Rick to the DUC this evening.

Thank you.