



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, April 8, 2009**  
Meeting Time: **7:00pm**

### 1. MOMENT OF SILENCE

### 2. PLEDGE OF ALLEGIANCE

Councilor DeDe led the Pledge of Allegiance.

### 3. ROLL CALL

**Present:** Mayor Myers, Deputy Mayor Trefethen, Councilors Callaghan, Carrier, Cheney, DeDe, McCusker, Scott and Weston.

**Also Present:** City Manager Joyal, City Attorney Krans and City Clerk Lavertu.

### 4. PROCLAMATIONS – None

### 5. APPROVAL OF AGENDA

Councilor Callaghan asked to remove 12.B.1.

Councilor Scott asked to move 12.A.6. to after the Mayor's Report.

Vote: 7/2; Passed.

Councilor Weston made a motion to approve the Agenda as amended; seconded by Councilor Carrier.

Vote: 8/1. Councilor DeDe was opposed.

### 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.*

**Eric Steltzer, 103 Henry Law Avenue, Chairman of Energy Advisory Committee:** He informed the Council and the citizens about the local garden and energy fair to be held on April 18, 2009, from 10:00 am to 3:00 pm, in the McConnell Center.

**Edward Bleiler, 28 Isaac Lucas Circle:** He read a statement into the record.

**Harvey J. Lynch, 26B Lincoln Street:** He said he was pleased to read that the City Manager found it difficult to do this year's budget. He said the terrible economy should be the #1 concern for the City Council. He asked the City Council not to increase spending.

**Jan Nedelka, 169 Doyer Point Road:** He spoke of the email issue. He said it was infuriating that some City Council members refuse to participate in the system. He said these were the same Councilors who ran for office demanding more accountability and more transparency. He said one of the Councilors said he fears for his own 4<sup>th</sup> Amendment rights. He said it is called public service. He said if the Councilors want to serve themselves, then they should stay home. He said the Councilor says to trust him, when this is the same Councilor who has been sued in the last year by one of his business partners for swindling him out of his share of the business.



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He said the Councilor's own business partners don't trust him, but the citizens are supposed to trust him that he is going to turn over emails when asked. He said the citizens are told that the Councilors are trying to protect public interests, and he said that was rubbish. He said no one comes to the Citizen's Forum and doesn't give their name. He said Foster's Daily Democrat won't publish an anonymous letter to the editor. He said Councilor Scott's own newspaper, The Dover City News, won't publish an anonymous letter to the editor. He said the word anonymous doesn't appear at the bottom of the Declaration of Independence. He said anonymity in government is a cloak for politicians and cowards. He told the Council to sign the stupid form and use the low cost, efficient government solution for a City email. He told the Council to start doing City business, instead of trying to hide it.

**Kirt Schuman, 30 Cushing Street, Executive Director for the Dover Chamber of Commerce:** He introduced himself as the new Executive Director. He said the Dover Chamber of Commerce represents over 500 businesses and 15,000 employees in the greater Dover area. He said the Chamber of Commerce is responsible for the Cochecho Arts Festival and Apple Harvest Day. He said in addition they provide networking, education, and advocacy for their members. He said with their move to 550 Central Avenue they will take on a larger role with the Visitor's Center. He said he looks forward to working with the City of Dover to improve the economic vitality of the community.

**Donald Medbery, 3 Covered Bridge Lane:** He said he supported the gentleman who spoke regarding the emails, and said everything that the gentleman said was gospel. He spoke on the \$2.5 million energy efficiency project. He said it may be another boondoggle for the City. He gave several examples of mistakes by the Council, such as buying fuel in advance and paying twice as much in the long run, and not putting in a new liner in the chimney at the McConnell Center when it was changed over to gas. He said another issue was the 10-year contract with Comcast, which just continued the suffering. He said there were still people without cable, and Comcast had until last November to get them hooked up. He said the Council should take a long hard look before signing the Johnson Controls contract.

**Richard Hebbard, 97 Spruce Lane:** He said he has asked the City Manager or City Clerk to provide an agenda packet to the citizens at the podium. He said he has noticed that many times the Council will get additional information on the night of the meeting, and he asked that that information be provided to the citizens as well. He said the replay of the meeting hasn't been playing on television. He said he spoke on this a few weeks ago, noting that it was either equipment failure or personnel failure. He said he felt it was personnel failure, and he would like to have it fixed. He referred to Councilor Weston's Resolution, 12.B.3., on renumbering roads. He said all of the "Extension" roads were changed in 2006 by the City Council. He referred to City Manager Joyal's absence. He asked to ask a question with a yes or no answer. He said City Manager Joyal and City Attorney Krans are usually present and participate in these meetings, and he questioned whether or not they are truly part of the meeting. He asked if the people behind him, the audience, are part of the meeting. He requested that from time to time the audience be shown on video. He referred to the Assembly Permit that is posted outside the Council Chambers. He said the permit expired in February 2008. He said there is a possibility



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that if that is not valid, then these meetings are not valid. He thanked Councilor Trefethen for representing Ward 4 constituents regarding PCA, and trying to alleviate that issue.

**Mary Hebbard, 97 Spruce Lane:** She also thanked Councilor Trefethen. She referred to the Deputy Director position resolution. She said despite all the information on savings for the City that was discussed, a lot of people feel that the City is trying to pad Mr. Peschel's retirement package. She also felt that if the Council does hire Mr. Peschel as the Deputy Director, then the Council should review Community Services Director Doug Steele's contract. She said Mr. Steele was hired to do certain tasks, and if Mr. Peschel is going to assume some of those duties, then the Council should in all fairness look at the Director's contract. She said what the City really needs are people to do the work, and not another supervisor or manager to delegate. She referred to water runoff, comparing a wooded lot and a developed lot. She said the City Attorney stated that Mr. Peschel, who is now the City's Environmental Projects Manager, would state in a court case that the water runoff is the same for a wooded lot and a developed lot. She said if Mr. Peschel really believes that, then he is certainly not the right person for the job.

**John Leggett, 128 Dover Point Road:** Councilor Scott read a statement written by Mr. Leggett to the City Council.

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

### 7. PUBLIC HEARINGS

#### **A. RESOLUTION: DEBT AUTHORIZATION FOR ENERGY EFFICIENCY PROJECT (VOTE TO BE TAKEN ON APRIL 22, 2009) SPONSORED BY MAYOR MYERS BY REQUEST**

**Edward Bleiler, 28 Isaac Lucas Circle:** He read a statement into the record.

**Eric Steltzer, 103 Henry Law Avenue, Chairman of Energy Advisory Committee:** He said this important Resolution was a time for the City of Dover to show its commitment to reducing its energy consumption. He said the energy performance contract has a host of benefits: reduce the City's energy use, reduce the City's energy costs, and reduce the City's emissions. He said the City's first energy contract was very different, because it was done by the City's staff without any consultation with energy experts. He said the contract still protected the City from any faulty installations. He said this time the City has hired a consultant to represent the City, John Rizzo, from ADI, bringing 20+ years of experience and technical knowledge. He said this contract will cost the City \$3.5 million when all the interest is calculated in. He said it will save the City \$260,000 in the first year alone, and using conservative estimates will save the City \$350,000 in year 10. He said the savings more than pay for the bond agreement, and will add a degree of protection against the unpredictable cost of energy in the future. He said the contract will protect the citizens from increased costs of energy and wasteful spending. He said unlike other bonded projects, a bond for energy improvement gives direct dollars back into the City's budget. He said the contract isn't perfect, but in weighing the negatives and positives, he hopes the Council will see that the right decision is to support this Resolution.



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**Donald Medbery, 3 Covered Bridge Lane:** He questioned the remarks made by and knowledge of Mr. Steltzer. He said he has run a few companies, and he said he was careful about 10 year contracts. He said the savings should be guaranteed. He asked if Mr. Rizzo was the same person who did the study on parking and streets. He agreed that it should have been in the CIP. He said he agreed with the comments of Mr. Leggett, who was a good source for the community. He said this Resolution should be put on the back burner until the City really knows what is going on.

**John Scruton, 99 Sixth Street:** He referred to Grange meetings where someone would go early to the Grange hall to start a fire to heat the building. He said when the fire went out, there were enough people to keep the building warm. He said when he heard about the energy efficiency project, there was no doubt in his mind that it should happen, whether Johnson Controls or someone else does it. He said the City can save on lighting, but recommended lights that don't glare. He said the City should have some tracking on how the systems are working. He said Johnson Controls was heavy on fossil fuels, and he would like to see costs for geothermal, solar, and wind. He said there should be involvement from the vocational technical schools, with demonstrations to teach others. He said there should be a pie chart for the citizens showing how much money was being spent for weatherization, lighting, and other projects, to give a picture of what is being done.

**Jan Nedelka, 169 Dover Point Road:** He said he supported this Resolution. He thanked everyone for the time invested in this project. He said it does pay for itself and there are guarantees. He said it was the right thing to do.

**Shannon Hill, 31 Hill Street:** She said she supports this Resolution. She said these are things that she has done in her personal and business life, and she expects the local government to do them as well.

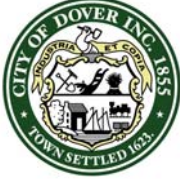
**Elizabeth Goldman, 44 Rutland Street, Member of Energy Advisory Committee:** She spoke in favor of this Resolution. She said the contract is guaranteed.

**William Garrison, 4 West Concord Street:** He said he supported this Resolution. He said any worthwhile investment will cost money up front, but the money will be recouped over a period of time. He spoke of paying points on mortgages in order to get a lower interest rate. He spoke of paying membership dues to BJ's in order to get an ungodly amount of toilet paper at a lower cost. He urged the Council to make a decision that is beneficial to the taxpayers, and to support the Resolution.

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

### 8. CITY MANAGER'S REPORT

City Manager Joyal gave a Powerpoint display to the Council on his proposed budget for Fiscal Year 2010.



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Mayor Myers made a few general comments. He said the City Manager has based the budget under current law, and he spoke of the Governor's proposed budget for the State to suspend the rooms and meals revenue sharing. He said since then the Governor has recommended to the legislature to put it back in place. He referred to the downshifting of State funding down to the local level and that it is not reflected in the City's budget at this time.

City Manager Joyal said the Council would have to accommodate the adjustments in some way. Mayor Myers referred to Page 5 of the Powerpoint display, the budget adjustments made by the City employees. He said there was no COLA adjustment last year for anyone. In addition, this year there is a complete wage freeze, increased co-pays for insurance, some staff taking pay cuts, and reductions in full-time employees.

Councilor Scott said it was a good presentation.

Councilor DeDe said he wanted to add to Mayor Myers comments regarding the dedication of the City's employees being shown again and again. He said everyone is feeling the pinch, and as a taxpayer he appreciated the work that the employees do.

Councilor Carrier said the presentation was a superb job, and he thanked the City employees.

Councilor Weston said she wasn't shocked by the employees' actions and thanked all of them.

Councilor Cheney said she was impressed with the employees for helping the citizens by doing this.

Deputy Mayor Trefethen thanked employees for answering the call.

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

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

### 9. MINUTES

**A. March 18, 2009**

**B. March 25, 2009**

Deputy Mayor Trefethen moved for the Minutes approval; seconded by Councilor Weston.

Vote: 7/0. Councilors DeDe and McCusker were absent from Council Chambers.

### 10. MAYOR'S REPORT

Mayor Myers said he has done several ribbon cuttings for the Dover Chamber of Commerce. He said he is pleasantly surprised by the number of businesses opening and growing in Dover. He said the Chamber of Commerce also hosted and raised money with the 2009 Sweep into Margaritaville Sweepstakes Event on March 27<sup>th</sup>. He said he attended the Highlighter Awards, an awards ceremony hosted by the Recreation Department, recognizing the volunteers in sports organizations. He said Councilor Carrier received the Lifetime of Achievement Award, recognizing all the work he has done. He said 11 mayors met with the Governor, and they spoke of the State's budget and its affect on cities and towns. He said the School will receive an additional \$800,000 from the State. He said in a sense it was pitting the School side of the budget against the City side. He said he didn't feel the legislature would pass the State budget until late June, and the Council may have to pass the City's budget without knowing the final State budget. Councilor Weston asked about a state proposal to raise the room and meals tax from 8% to 8½%.



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Mayor Myers said the Governor's proposal was a ¾% increase, and the entire increase was to stay at the State level.

Deputy Mayor Trefethen moved to accept the Mayor's Report; seconded by Councilor Weston.  
Vote: 9/0.

### **12.A.6. RESOLUTION: B09060 TRAFFIC CONTROL FLAGGING SPONSORED BY MAYOR MYERS BY REQUEST**

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

Councilor Scott said he asked that this Resolution be moved because he was surprised to see the appropriation of \$324,000, and he didn't remember this amount. He asked where this appropriation is in the budget book.

City Manager Joyal said anywhere there is a maintenance improvement, other than building account #4652, it could be in multiple accounts, such as water, sewer, facilities and grounds, etc. He told Councilor Scott he would find out the answer for him. He said these have variables and tend to be long lists, and asked if Councilor Scott will want this type of detail every time.

Councilor Scott said no, he didn't want it every time. He just couldn't find the total funds for this appropriation this time.

Councilor Cheney asked if it was expected that the City will spend the entire \$53,000.

City Manager Joyal said no, the balance available is \$53,000. He said the City doesn't know the needs during the construction season. He said it wouldn't exceed that amount.

Councilor Callaghan said he would like a list.

Mayor Myers said to list all the accounts would be pages long, and he wouldn't support that.

Councilor McCusker said this information is available. He said there should be more education on reviewing the budget if the Council wants to go through each line item.

City Manager Joyal asked Daniel Lynch, Finance Director, to explain what the numbers are.

Mr. Lynch said in the 2009 Budget Book there was \$62,000 in the water fund on Page 116; \$160,000 in the sewer fund on Page 118; \$99,415 in the general fund on Page 99; and \$2,500 in the arena fund on Page 120.

Deputy Mayor Trefethen said this should have been asked of the City Manager before the meeting.

Councilor Callaghan said the answer was simple, and didn't take a lot of time. He made a motion to show the line items for each Resolution; seconded by Councilor Scott.

Mayor Myers said this was four line items, but others can be numerous. He would not support this motion.

Vote: 3/6; Failed. Councilors Callaghan, Cheney and Scott voted in favor.

Deputy Mayor Trefethen made a motion to move the question; seconded by Councilor Weston.

Vote: 9/0.

Roll Call Vote: 9/0.

## **11. UNFINISHED BUSINESS**

### **A. ORDINANCES IN THE 2<sup>nd</sup> READING – NONE**

### **B. RESOLUTIONS – NONE**



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### 12. NEW BUSINESS

#### A. CONSENT CALENDAR

1. **RAFFLE – Castaways Boathouse**
2. **RAFFLE – Dover Children’s House**
3. **RAFFLE & TAG – DHS Softball Boosters**
4. **PARADE – Woodman Institute Museum**
5. **PARADE – The Children’s Museum of New Hampshire**
  
6. **RESOLUTION: B09060 TRAFFIC CONTROL FLAGGING**  
SPONSORED BY MAYOR MYERS BY REQUEST

Agenda was amended to move this Resolution to after the Mayor’s Report.

7. **RESOLUTION: B09042 2008 INFILTRATION AND INFLOW REDUCTION**  
SPONSORED BY MAYOR MYERS BY REQUEST
  
8. **RESOLUTION: B09045 SAND AND GRAVEL PRODUCTS**  
SPONSORED BY MAYOR MYERS BY REQUEST

#### COMMITTEE REPORTS

- |   |   |
|---|---|
| 1. Appointments Committee                 | 8. City / School Joint Services 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                         | <b>12. Legislative Liaison</b>            |
| 6. Cable Franchise Negotiations Committee | 13. Coast Bus                             |
| 7. School Board Liaison                   |   |

Councilor Scott asked to pull 12.A.8.

Councilor DeDe asked to pull the Legislative Liaison Report, because he noticed some corrections, and he placed a new copy before the Councilors.

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 the approval of 12.A.8.; seconded by Councilor Scott.

Councilor Scott said he sees the list of prices for different materials. He asked what the City was getting from Severino for the sand and gravel they take out of the gravel pit.

City Manager Joyal said he would have to look that up.

Councilor Scott asked if the City was paying one and half times for its own gravel.

City Manager Joyal said he has explained this every year when this Resolution comes before the Council. He said the City is selling a raw commodity and it’s up to Severino to mine it. He said the Resolution is for material that has been processed.

Roll Call Vote: 6/3; Passed. Councilors Callaghan, Cheney and Scott were opposed.



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Councilor DeDe made a motion to substitute as a whole the Legislative Liaison Report on the Councilors' desks; seconded by Councilor Cheney.

Vote: 9/0.

Councilor DeDe read the report into the record. He said if this passes it would be sent to the newspaper as a letter to the editor.

Councilor Weston asked that it be sent to Foster's Daily Democrat, Dover City News, and the Manchester [sic] Union Leader. She said the Union Leader is read by a lot of people in Concord.

Councilor Scott also suggested The Rochester Times.

Councilor Cheney recommended including The Concord Monitor.

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

### B. RESOLUTIONS

#### 1. RESOLUTION: PROHIBITION OF DISCRIMINATION SPONSORED BY COUNCILOR CALLAGHAN

This Resolution was removed from the Agenda.

#### 2. RESOLUTION: REQUEST TO REPROGRAM BALANCE OF GARRISON CAPITAL FUNDS (TO BE REFERRED TO PUBLIC HEARING ON MAY 6, 2009) SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved to refer to a Public Hearing on May, 6, 2009; seconded by Councilor Cheney.

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

#### 3. RESOLUTION: RENAMING AND RENUMBERING PORTIONS OF HORNE COURT; SMITH ROAD; SPUR ROAD EXTENSION; TOLEND ROAD EXTENSION; MAST ROAD EXTENSION; BELLAMY ROAD; REDDEN STREET; AND REDDEN STREET EXTENSION (TO BE REFERRED TO PUBLIC HEARING ON MAY 6, 2009) SPONSORED BY COUNCILOR WESTON

Deputy Mayor Trefethen moved to refer to a Public Hearing on May, 6, 2009; seconded by Councilor Weston.

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

#### 4. RESOLUTION: NAMING OF ENTRANCE TO MAGLARAS PARK AND SOUTHSIDE LITTLE LEAGUE (TO BE REFERRED TO PUBLIC HEARING ON MAY 6, 2009) SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved to refer to a Public Hearing on May, 6, 2009; seconded by Councilor DeDe.

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



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### C. ORDINANCES IN 1ST READING – NONE

### D. COUNCIL CORRESPONDENCE

### 13. COUNCIL MATTERS OF INTEREST

Councilor Carrier questioned why Mr. Peschel's contract was not on the agenda.

Mayor Myers said there was a motion to table it until after the budget. He referred to Robert's Rule of Order #17, Motion to Lay on the Table, and said the resolution should come up at the next opportunity. He said under Robert's Rule #14, Postponing to a Date Certain, a date is allowed at which to bring the resolution before the Council again. He said the motion can come back at any time.

Councilor Carrier said he would like to put it on the agenda with the notation to remove from table. Councilor Cheney said the Council typically tables a Resolution, and does not postpone. Mayor Myers said he didn't interpret it correctly, and he has since researched it. He said he should have postponed it until a date certain.

Councilor Weston said she watched the replay of the meeting and said it was "after the budget." She said the intent that night was to postpone it until a date certain.

Mayor Myers said the Council can make a motion to appeal his interpretation.

Councilor Cheney said the Councilors are not attorneys. She said the intent was to delay until after the budget.

Councilor Carrier said he was not looking to postpone this resolution until after the budget. He wanted two weeks to have a little more time to make a good sound judgment.

Councilor Scott asked why the Council was rushing this resolution. He said the Council should finish the budget before the Council looks at this.

Councilor McCusker asked if it could go back on the agenda tonight.

Mayor Myers recommended that it be put on the agenda in two weeks.

Deputy Mayor Trefethen said the Robert's Rules of Order investigation shows that for several years the Council has been tabling resolutions incorrectly. In the future the Council knows to table to the next meeting, and to postpone to a date certain.

Councilor Carrier asked if it did come up on the next agenda, if the Council still has the option to vote, table, or postpone. He said he would like to resolve this. He made a motion to put it on the next agenda.

City Attorney Krans asked the Mayor if he could speak. He said there are Council Rules on how the agenda is set. He said the Mayor, City Manager and City Clerk meet and determine what is put on the agenda.

Councilor Carrier withdrew his motion.

### 14. ADJOURN

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

Vote: 9/0.