



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: **Special Meeting**  
Meeting Location: **Council Chambers - 288 Central Avenue, Dover, NH 03820**  
Meeting Date: **Wednesday, April 15, 2009**  
Meeting Time: **7:00 pm**

### 1. MOMENT OF SILENCE

### 2. PLEDGE OF ALLEGIANCE

Councilor Cheney 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. CITIZEN'S FORUM

*Citizen's Forum is limited to the CIP Resolution on this Agenda in Accordance with City Council Rules – Item 12-D. Statements shall be limited to five minutes.*

**Mary Hebbard, 97 Spruce Lane:** She spoke about the Resolution regarding telephone participation, and said according to RSA 91-A that this was allowed. She said she was all for any legislation or rules that allow greater constituent representation. She asked why there was a Resolution for Councilor DeDe to do this on the Agenda. She said Councilor DeDe has missed two meetings recently and didn't participate over the phone at that time. She said she felt this was only brought forward so Councilor DeDe could vote on the energy efficiency contract and the employment contract for the Deputy Director for Community Services position. She said according to RSA 91-A this would be allowed, and a Resolution wasn't needed.

**Donald Medbery, 3 Covered Bridge Lane:** He started to speak about Mr. Peschel's contract.

Councilor DeDe asked for a point of order.

Mayor Myers told Mr. Medbery that this was a Special Meeting, and that the Citizen's Forum speakers could only speak to the items on the Agenda.

Mr. Medbery said he understood and wanted to make a comment on moving the Budget to a public hearing. He said he felt all things concerning the Council should be open and there should be no non-public meetings.

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

### 5. RESOLUTION: AUTHORIZE A MEETING WITH TELEPHONE PARTICIPATION SPONSORED BY MAYOR MYERS BY REQUEST

Mayor Myers moved for its adoption; seconded by Deputy Mayor Trefethen. Councilor Callaghan asked to make a friendly amendment to the Resolution, and referred the Council to the copy on their desks. He said the Resolution shouldn't single out any one Councilor. He went over the changes that he made to the Resolution with the Council.



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Councilor Scott seconded the amendment.

Mayor Myers said he understood this was passed by State law last year, but this was the first time that the Council has dealt with this. He asked for clarification from the City Manager or City Attorney on what the law calls for, and if it had to be done on a case by case basis.

City Attorney Krans said the law went into effect last summer after a long period of study. He said one of the legal requirements is that the Council agrees to this. He felt the proper way to address meetings like this is to approve or disapprove of them on an individual case by case basis. He said he would not suggest a blanket resolution, because he felt the Council should decide for each individual case whether or not it is practical for the councilor to attend. He cautioned the Council against using the amended Resolution.

Mayor Myers gave an example of a councilor having to leave town for an emergency, and asked if the Council at that meeting could vote to allow the councilor to attend the meeting from a remote location, as opposed to this Resolution where there is a full week notice.

City Attorney Krans said either way is acceptable, but it does require a Council vote.

Councilor Cheney said she disagreed. She said she felt that this Resolution didn't need to come to the Council, because it was completely covered in the State law. She said she would support the amended version.

Councilor Callaghan referred to the statement of "remote location," and said it would be up to the Council to decide, and to censure the councilor if they abuse this privilege. He said he felt that individually picking a councilor and the rationale for it each time could show favoritism or a deprivation of speech. He said it could bring up questions of whether the person was kept away because some of the Councilors didn't want them to vote, or deliberately allow them to attend remotely because some of the Councilors did want them to vote. He said the law didn't say that the Council had to do it by a case by case basis. He said it needs to be fair and consistent.

Deputy Mayor Trefethen said the original Resolution was put on the Agenda to be cautious, because the Council hasn't done it before. He said the Council can address this issue with a Resolution, even though there is a law. He said he would be voting against the amendment at this time.

Councilor Weston said she had no problem with the original Resolution, because the Joint Building Committee already practices this policy.

Councilor DeDe said he supported the opinion of the City Attorney.

Mayor Myers said he agreed with Deputy Mayor Trefethen. He said he was in favor of the original language of the Resolution, and not the amended Resolution.

Councilor Callaghan said he would withdraw the amendment for the Resolution, and asked for a different amendment.

Councilor Scott withdrew his second for the motion to amend.

Councilor Callaghan made a motion to make a second amendment. He asked to change "Councilor Douglas DeDe" to "Councilors Douglas DeDe and Rick Callaghan." He said he will be out of the state on that night.

Councilor Scott seconded the motion to amend.

Councilor Callaghan said he would be a considerable distance away and wouldn't be able to make the meeting.

City Attorney Krans said Councilor DeDe doesn't have to tell the Council where he is going, but he needs to make a representation just like Councilor Callaghan, so that the record is clear that he's not talking about Eliot, Maine or another location that close.



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Mayor Myers asked when that had to be done, to make an amendment or at some time during the discussion.

City Attorney Krans said just sometime during the discussion.

Councilor Scott said he didn't care for making any resolution personal. He asked to make a motion to change it to any councilor, and until July 15<sup>th</sup>; seconded by Councilor Cheney.

Mayor Myers asked Councilor Callaghan if he was okay with the friendly amendment.

Councilor Callaghan said he was fine with the friendly amendment.

Councilor Cheney said she felt this was redundant. She said the law says the Councilor can vote no matter what, and that the technology has to be available. She felt the Resolution was limited and inappropriate.

Councilor Scott made a motion to table the Resolution; seconded by Councilor Cheney.

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

Mayor Myers said he would vote in favor of Councilor Callaghan's original amendment to add the name for a specific date, and not the friendly amendment that included a blanket statement for any councilor to carry this through for three months. He said he felt it should be handled on a case by case basis. He said his intention is to include all councilors at all meetings.

He asked for a vote on the amendment.

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

Mayor Myers said the Councilor is considering the original Resolution.

Deputy Mayor Trefethen made a motion to include Councilor Callaghan for the April 22<sup>nd</sup>

Council meeting on the Resolution; seconded by Councilor Weston.

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

Deputy Mayor Trefethen asked to move the question as amended; seconded by Councilor DeDe.

Roll Call Vote to move the question: 9/0.

Roll Call Vote for the Resolution as amended: 9/0.

**6. RESOLUTION: FISCAL YEAR 2010 BUDGET APPROPRIATIONS, FEES AND CAPITAL IMPROVEMENTS PROGRAM  
(SCHOOL PORTION TO BE REFERRED TO PUBLIC HEARING ON APRIL 22, 2009)  
(CITY PORTION TO BE REFERRED TO PUBLIC HEARING ON MAY 13, 2009)  
SPONSORED BY MAYOR MYERS BY REQUEST**

Deputy Mayor Trefethen made a motion to move this to the appropriate Public Hearings; seconded by Councilor DeDe.

Vote: 9/0.

**7. ADJOURN TO WORKSHOP SESSION**

Deputy Mayor Trefethen made a motion to adjourn to the Workshop Session; seconded by Councilor Carrier.

Vote: 9/0.