



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, April 22, 2009**
Meeting Time: **7:00pm**

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

Pledge was led by Councilor McCusker

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.

Slightly different circumstances tonight. Two Councilors, DeDe and Callaghan, are participating via telephone per new RSA 91-A rules and resolution passed on 4/15/09. All votes will be roll call votes and notice of off site participation must be placed in minutes. A quorum must still be present on site. Throughout the meeting we will confirm that the councilors can hear and be heard and at this time both councilors could hear and be heard. It was also verified that the public could hear the 2 councilors as well with slight feedback. A reason needed to be expressed for the record: Both DeDe and Callaghan stated that it was not feasible to be here tonight because of distance. They also both confirmed that no one else was in the room with them.

4. PROCLAMATIONS – None

5. APPROVAL OF AGENDA

City Manager requested that item 11B2 –Deputy Community Services position be withdrawn as it is no longer needed. Mayor Myers asked why and was told that the employee was no longer interested in giving up \$21,000 a year.

Vote: 9/0 roll call

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.

Harvey Turner, 4 Auburn St: Thanked the Council for serving. Is here to discuss Willand Pond. He had handouts for Councilors that showed conditions in 1999 and updated. Willand pond is still flooded 30 inches above any previously recorded height. Many things are now under water and trees dead from standing water. I have been to all of the meetings and now excited to see solutions. Key issues are when it will be fixed and who will pay. I would like to see a workshop scheduled to address solution presentation which is accessible online. Somersworth should no longer be in denial about what caused issues. There are 3 basic remedies: 1. remediate detention ponds around Willand Pond. 2. Build step pool. 3. Dover can start pumping water. Solutions are all North towards Somersworth and they have no money



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allocated. Somersworth should agree to pay their share. Dover appropriated money and took action. If Somersworth disagrees then City Attorney should take action after May 4th.

Ronald Huml, 199 Mast Rd: Concerning the Johnson Controls contract: suggest funding from fund balance and save money in interest payments. You can then put it back into fund balance as savings are realized. With the new auditing firm I would hope you would have workshop for public input.

David Bamford, 296 Gulf Rd: It is fitting to discuss energy conservation on earth day. We must reduce carbon footprint but the question is what will it cost? Money is tight. Johnson Controls is a well respected firm. We will never find a cheaper time to do this investment since this is a secure investment. We will save enough money to pay off bond in 7.2 years. Businesses have been doing these things for years. Who would still have a heated pool without a cover? It is unfair to planet and citizens of Dover if we don't take action and after 10 years the savings will be additional free money.

Gretchen Hatfield, Third St: We have lived in Dover for a few months and believe it will continue to grow. We have a civic responsibility for healthy finances and energy conservation. This is the best time to do this type of energy project. If we can improve globally by acting locally it will be a strong statement and save us money.

Donna Markowitz, 1 Sumner Dr: Here in support of energy project. I am a first time homebuyer and we welcome this type of project. Saving energy saves money and will pay for itself. Many younger people find the environment to be important and we recycle, compost, change lights etc. and government must do the same. Dover must become a leader.

Eric Steltzer, Chair of the Energy Advisory Committee: Successful garden and energy day at the McConnell Center. Approximately 250 people attended and we had 15 vendors. 40 people signed up to receive emails on what Dover is doing about energy. 2. The energy contract: I want to address some concerns expressed at the podium. My credentials are that I have a graduate degree with a focus on renewable energy and I work with municipalities and the State of NH on energy savings. The City could piecemeal this project but there would be a disadvantage because we would lose the protection for the City if savings not realized. If we don't do this project we still need to pay for the consultant, the library boiler, and the audit. Johnson Controls has also promised to use local laborers when they could but they also have experts that are needed. I believe this process was not perfect however it is worse to do nothing. (*Mayor Myers confirmed if DeDe and Callaghan could hear- no answer form Callaghan*).

John Scruton, 99 Sixth St: 1. Glad there is money for audit because we need a full audit. 2. energy measures are on track but it doesn't make sense to change types of energy used without conservation first. Also, an intern should be assigned to track progress and School should do it also.



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John Pentalokus, owner of Patches Infared Paving: Business owner in Dover since 1996. In 2005 I did a repair job on Locust St and it is still intact. Cole Planing fractures existing pavement and doesn't work. To fix 2700 square feet costs \$14,000 and our method would cost \$8800. I attempt to call Community Services and do not get a response. I do not feel I am getting the respect and acknowledgement I deserve since we offer a good job at a good cost.

(Mayor Myers confirmed if DeDe and Callaghan could hear-both responded in affirmative)

Jan Nedelka, 169 Dover Point Rd, Vice Chair of Arena: Would like City Council to consider motion that if energy contract passed then arena rates be increased by additional 1 percent. This would cover cost by year 1 instead of year and goes along with the philosophy of self sufficiency for the Arena.

Mike Reilly, Owner Brox Industries: Here concerning pavement resolution. I sent emails to City Council and would like email entered as part of record. We bid and were not lowest. Purchasing opened bids and Continental Paving failed to submit a bid bond with their proposal which is a requirement. Without that bid bond they have no risk. This omission is unfair to bidders and the City of Dover. Hope you do not award this bid and reject 1 or all.

Don Medbury, 3 Covered Bridge Lane: Obviously Energy contract brings out young people.
1. I object to the energy contract now because of economic times. We should look at natural savings.
2. Infared paving: I discussed with the owner and Community Services and I understand his frustration because he is selling a superior service.
3. Asphalt-no bid bond means they failed to comply and should not have been given an extension. I discussed this with Dan Lynch and Anne Legere and we discussed the right decision with responsibility and the purchasing agent talked to a supervisor about this issue. If this is allowed you will water down future bids. You need to either rebid or give contract to second bidder.

Edward Bleiler, 28 Isaac Lucas Circle: read from handout that was submitted to clerk and placed on file under correspondence.

Anthony McManus, Glenn Hill Rd: I appeal to you to adopt the energy program. This will work as shown by past experience in other cities. If you vote no be prepared to explain to taxpayers why you are willing to waste money.

Mary Krans, member of Dover Main Street Board: 10th annual Dover pride clean up day is Saturday at 8 am in the Courtyard. We clean, rake and pick up trash etc and make Dover ready for summer.

Gary Green, 18 Footbridge Lane: Hopefully you saw my letter in the newspaper concerning the energy contract. I thank the arena and Energy Advisory Board for their work. I am also disappointed the opportunity for the Deputy Community Services position went away and am sorry for some of the things that I heard being said at the podium. *(Mayor Myers confirmed if DeDe and Callaghan could hear-both responded in affirmative)*



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7. PUBLIC HEARINGS

A. RESOLUTION: FISCAL YEAR 2010 BUDGET APPROPRIATIONS, FEES AND CAPITAL IMPROVEMENTS PROGRAM - SCHOOL PORTION SPONSORED BY MAYOR MYERS BY REQUEST

Ronald Huml, 199 Mast Rd: I thank Dr. O'Connor, School Board and financial staff for their work. I do have a few questions: 1. \$800,000 of State funds-is this for currently unfunded items? If so the money should go to the School if not the money should go to the City. 2. Local tax rate math is 2.8% how does that become 2%?

Pat Sorenson, 3 Westward Circle: We have been residents of Dover for 45 years and our children were students in this City. I did not vote to cut taxes and was surprised the Council wanted to keep the increase at 2%. Cuts made last year were not restored and further cuts may come and the children suffer. \$10/year/tax payer is a couple packs of cola. NH is one of the lowest states with State aid. We should make every attempt to fund programs. Teachers invest their own money and time into classrooms. Please consider this budget carefully. (*Mayor Myers confirmed if DeDe and Callaghan could hear-both responded in affirmative*)

8. CITY MANAGER'S REPORT

This report includes the summary of legal services and an economic summary provided by the Economic Developer. We will start including this report each month.
In regards to Willand Pond: there are 3 alternatives: 1. Dover pays with the money allocated 2. Dover pays and attempts to get grant money and work with Somersworth 3. do nothing which is not recommended. We can expect a workshop with the Planning Board in May
The email with John Pentelokus was the only communication I have had and I will follow up with him. This is 1 type of strategy for repair however it cannot be used to address underlying defects and sub base issues. Infrared patching has not been put out to bid and there is not a need for these services at this time. The bid that was put out was for cut and patch technology which is why his bid was not accepted. I will follow up. Councilor Scott suggested a workshop might be in order. Motion to accept report by DeDe seconded by Weston
Vote: 8/0 roll call vote with McCusker out of the room

9. MINUTES

A. April 8, 2009

Motion to accept by Trefethen seconded Weston
Vote: 8/0 roll call vote with McCusker out of the room



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10. MAYOR'S REPORT

I attended a rotary luncheon and Relco celebrated the 20th anniversary.
I want to recognize Wentworth Douglas Hospital donation to Police Youth division for \$75,000.
Dover baseball had opening day and approximately 600 kids attended
Dover clean up is Saturday
Motion to accept report by DeDe seconded by Cheney
Vote: 8/0 roll call vote with McCusker out of the room

11. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2nd READING – None

B. RESOLUTIONS

1. RESOLUTION: DEBT AUTHORIZATION FOR ENERGY EFFICIENCY PROJECT (REQUIRES A 2/3 MAJORITY VOTE)

SPONSORED BY MAYOR MYERS BY REQUEST

Motion to approve by Trefethen seconded by Carrier. City manager explained that yesterday we were advised by the DES that the Energy project has qualified for stimulus money of \$279,157.00 towards the Waste Water treatment Plant improvements as part of the loan program. We are also requesting \$94,682 from Community Development Block funds. However, we need commitment by City Council to get this money.

Deputy Mayor Trefethen stated that everything has already been said. I originally did not vote for Energy Advisory Committee however they did their homework. This contract represents savings.

Councilor Scott said he will vote against this. Can not support bonding and it was agreed that we would only put in CIP projects that offset debt retired.

Councilor McCusker stated we need to spend to save and he supports the program.

Councilor DeDe stated that this is a guaranteed contract and not a gamble. The previous company had to pay us when it did not work.

Councilor Callaghan said that he is still opposed at this point. 1. we should do work with individual contractors now that we have the list of work to be done. 2. formula is subjective and variable 3. Should not enter into contract with just one company.

Councilor Weston stated that she is not for or against it at this time. She is waiting to hear back from PSNH and other cities that have entered into this type of contract. If forced to vote tonight I will vote no. On the surface it appears to be a benefit so I do not want to kill this. Motion by councilor Weston to postpone to after budget passed was seconded by Scott.

Councilor DeDe said that there has been plenty of time to review and consult.

Deputy Mayor Trefethen said he would not support postponing because we have had this for at least 8 weeks and we will lose stimulus money. Project numbers worked even with worse case scenario numbers.

Councilor Carrier said he is not looking to postpone.



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Councilor Callaghan said that a postponement is in order. Should be after budget and it is not responsible to increase debt. We also have not explored other possibilities. Motion to move question by Councilor Callaghan did not have a second.

Councilor Cheney supported postponing and felt that there should be full support if additional information is needed.

Councilor Weston said that she was looking for analysis of the work and wanted additional time to receive the information.

Councilor Callaghan made a friendly amendment to do simultaneously with budget as part of final budget approval which was seconded by Councilor Weston. Failed 4/5 roll call vote with Councilors Weston, Callaghan, Cheney and Scott in favor.

Councilor Weston made a motion to postpone to coincide with adoption of budget seconded by Councilor Scott failed 4/5 with Councilors Weston, Callaghan, Cheney, and Scott in favor. Deputy Mayor Trefethen asked the City Manager the time frame since grants are time sensitive. City manager replied that DES wants answers by April 20th and were told we would be voting tonight. Deputy Mayor Trefethen questioned how those in favor of postponing can look tax payers knowing they are giving up money...how will you explain it?

Councilor Carrier said we have had time. Professional people did the research. Stimulus money will be lost. It is our duty to lower energy usage. I can not believe you want to micro manage this process. This is a sacrilege.

Mayor Myers said he is in favor of this contract because it saves energy and money. We have known about this since last fall. It was a good idea then and now we have stimulus money. This project had a positive cash flow if the entire amount was bonded. Now we have stimulus money. This was in the CIP and was the only project that returned money and saved money. This project saves enough money to pay for itself. The piecemeal approach loses guarantees and accountability. We hired John Rizzo and he rewrote contract to protect us. Now we risk losing stimulus funds.

Councilor Cheney said that she had a problem with process all along. This Council did not address scoping audit. Many of the recommendations are fundamental. Our CIP amounts are close to equaling our Council set limits. Also concerned with Federal Government mandates that will end up costing city money. I have an issue with the fact that they have 1 year to get things in place but measurement starts at date of contract. Also on page 8 and 9 we have 90 days to determine if report is correct and to get independent audit is difficult. This council needs to deliberate longer for a 10 year contract.

Councilor DeDe replied that there was plenty of time to go through the issues and it is irresponsible to not do this. We will end up paying more if we don't do this.

Councilor Callaghan stated that we may have resources of our own to do this. To change a programmable thermostat does not take a contractor. We agreed to an audit to see what can be done.

Councilor Scott said he voted for the audit and we should pay for it. Some of these things we can do ourselves. Not reason to rush in and add to our debt.

Councilor McCusker said that it would be different if we had enough personnel but we continue to cut positions. Who would be responsible for this and has time to take on the extra duties. We also can not guarantee the work for ourselves. Johnsons Controls gives us a guarantee. I hope we get thank you cards from the towns that get our portion of stimulus funds.



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Councilor Weston said that she was insulted that it was said that it is sacrilegious if I vote no. I can not vote for something that I do not believe in. If this fails 5.4 it is not my fault because I wanted to wait until I got more information.

Mayor Myers asked who would we get to do the work? No one. Page 3 of the resolution is not the cost to the tax payer. That was based on all of it being bonded. It is not the net impact. Councilor Carrier stated that we all have a right to vote yeah or nay. It is our job to look at everything but professionals looked at this. Nothing about this will change in 2 months time. How many people do we want to ask about this?

City Manager told the Council that he recommended proceeding with the project. A consultant was hired to represent the City, Johnson Controls is a reputable company. PSNH and Unitil were consulted as part of proposal. Councilor Weston did not discuss her concerns but perhaps I can give her the answers. No one knows if stimulus money will be lost but I believe it will be. Resolution failed. Vote: 5/4 roll call vote with Weston, Callaghan, Cheney and Scott opposed.

**2. RESOLUTION: DEPUTY DIRECTOR OF COMMUNITY SERVICES
EMPLOYMENT AGREEMENT WITH DEAN PESCHEL
(TO BE REMOVED FROM TABLE)
SPONSORED BY MAYOR MYERS BY REQUEST**

Withdrawn during agenda acceptance

12. NEW BUSINESS

A. CONSENT CALENDAR

1. PARADE – Dover Knights of Columbus
2. RAFFLE – Breast Cancer 3-Day Walk for The Cure
3. RAFFLE – Garrison School
4. TAG – Dover Little Green Football, Inc.
5. TAG – Great Bay Figure Skating Club (May 22-24, 2009)
6. TAG – Great Bay Figure Skating Club (June 5-7, 2009)

7. RESOLUTION: B09051 – MUNICIPAL AUDITING SERVICES
SPONSORED BY MAYOR MYERS BY REQUEST

8. RESOLUTION: B09056 – WATER DRAIN SUPPLIES
SPONSORED BY MAYOR MYERS BY REQUEST

9. RESOLUTION: B09057 – SEWER DRAIN SUPPLIES
SPONSORED BY MAYOR MYERS BY REQUEST

10. RESOLUTION: B09061 – ASPHALT TRENCH PATCHING SERVICES
SPONSORED BY MAYOR MYERS BY REQUEST

11. RESOLUTION: B09065 – HOT BITUMINOUS PAVING
SPONSORED BY MAYOR MYERS BY REQUEST



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Councilor Scott pulled item # 7. Councilor Cheney pulled items # 10 and 11. Motion to adopt the remaining items by Trefethen seconded Cheney passed.

Vote: 9/0 roll call vote.

12A7: Deputy Mayor Trefethen moved for its adoption seconded by Councilor Scott. Motion by Cheney to postpone to workshop on May 6th. The City Manager replied that it is not doable as we need to engage the auditor now to start to do the fieldwork.

Deputy Mayor Trefethen said he was baffled because he heard from Councilor Scott we need new auditors and now there is an objection to a resolution changing auditors.

Mayor Myers did not support postponing. He voted to form audit committee and it failed. Firm that normally does this was low bidder and they promised to bring in all new people and the Council still chose another company.

Councilor Scott said he was pleased that we chose a new company as we need a full audit. We also need workshop to discuss what we are looking for. We also need to address questions that have been asked at the podium.

Mayor Myers reminded everyone that we spend \$50,000 each year on auditing services. The questions referred to could have been handles by one of the Councilors taking charge and dealing with it.

Councilor Callaghan said he agrees with a workshop as he had serious concerns with last audit. He also thought they would have more input with the RFP. He wants a definition of independent and wants to prioritize items. Date deadlines should also be included. Motion to postpone fails.

Vote: 3/6 roll call vote with Callaghan, Cheney, and Scott in favor.

Councilor Cheney said that the City Council needs to deliberate further. However the intent of the council was to change auditors and that has been done. Resolution passes

Vote: 8/1 roll call vote with Councilor Callaghan opposed.

12A10: Deputy Mayor Trefethen moved for its adoption seconded by Councilor Cheney.

Councilor Cheney said that we have to be more alert to situations on our roads. Councilor Carrier said he also got the packet and it was very informative. If situations come up that are cost effective it is nice to be able to keep work local.

Councilor DeDe made a motion to table until 5/13 meeting so that Community Services can do a comparison seconded by Councilor Callaghan. Motion passed

Vote : 8/1 roll call vote with McCusker opposed.

12A11: Deputy Mayor Trefethen moved for its adoption seconded by Councilor Cheney.

Councilor Cheney said that she got some calls on this issue. She had been involved with bids before and if you missed 1 item you were not considered.

Mayor Myers requested an explanation of what a bid bond is. City Manager stated that Mr. Riley explained it well. A bid bond guarantees the pricing so that they vendor can not walk away if their price is significantly lower. The question is if it is required. When you read language it says Should accompany bid. Purchasing agent gave them 24 hours to submit bid bond and they did. City Council has the authority to choose any vendor. We will make the language clearer in the future.



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Mayor Myers said that he supports awarding bid to Brox. Motion by Deputy Mayor Trefethen to amend resolution to change name to Brox with Brox bid amount seconded by Councilor DeDe. Motion passed.

Vote: 9/0 roll call vote.

Councilor Callaghan had concerns that we could be jeopardizing ourselves and questioned the City Attorney. City Attorney explained that the City is entitled to take most advantageous bidder. Price and sanctity of process are important and can be supported.

Councilor McCusker said he supported the employee. Should does not mean shall and the employee looked at a \$30,000 decision. They based their decision on price and were trying to assist the City. Doesn't appreciate that individuals are named at the podium and only half the story is told.

Councilor DeDe agreed that the employee saw a \$30,000 savings to the City.

Mayor Myers shared concern of people at the podium quoting an employee without the employee being here. Resolution passed as amended

Vote: 9/0 roll call vote.

COMMITTEE REPORTS

1. Appointments Committee
2. Arena Committee
3. Arts Commission
4. McConnell Center Committee
5. Planning Board
6. Cable Franchise Negotiations Committee
7. School Board Liaison
8. City / School Joint Service Committee
9. Solid Waste Advisory Committee
10. Transportation Advisory Committee
11. Joint Building Committee
12. Legislative Liaison
13. Coast Bus

B. RESOLUTIONS

1. RESOLUTION: AUTHORIZATION FOR CITY MANAGER TO ENTER INTO A CONTRACT WITH JOHNSON CONTROLS

SPONSORED BY MAYOR MYERS BY REQUEST

Motion to adopt by Deputy Mayor Trefethen seconded by Councilor DeDe. City manager requested that the resolution be changed to pay \$25,000 for audit and \$33,605 for library boiler. If contract entered into later than these would be applied as a credit. Motion to change contract as requested by deputy Mayor Trefethen seconded by Councilor passed

Vote: 9/0 roll call vote.

Item 12B2 was started however later the City Council was informed that the resolution itself was not voted on. They then voted to adopt the resolution as amended.

Vote: 9/0 roll call vote.



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2. RESOLUTION: ACCEPTANCE OF THE ACTION PLAN AND EXPENDITURES FOR THE FISCAL YEAR 2009 CDBG ENTITLEMENT FUNDS (TO BE REFERRED TO A PUBLIC HEARING ON MAY 13, 2009) SPONSORED BY MAYOR MYERS BY REQUEST

Motion to move to public hearing date by Deputy Mayor Trefethen seconded by Councilor Cheney.

Vote: 9/0 roll call vote

3. RESOLUTION: REPROGRAMMING OF UNEXPENDED BOND PROCEEDS – SAU MCCONNELL CENTER RENOVATIONS PROJECT TO HORNE STREET SCHOOL CIP PROJECT (REQUIRES A 2/3 MAJORITY VOTE) (TO BE REFERRED TO A PUBLIC HEARING ON MAY 13, 2009) SPONSORED BY COUNCILORS CHENEY AND WESTON

Motion to move to public hearing date by Deputy Mayor Trefethen seconded by Councilor Cheney.

Vote: 9/0 roll call vote

4. RESOLUTION: REPROGRAMMING OF UNEXPENDED BOND PROCEEDS – BOUCHARD WELL FISCAL YEAR 2007 TO CUMMINGS WELL PROJECT (REQUIRES A 2/3 MAJORITY VOTE) (TO BE REFERRED TO A PUBLIC HEARING ON MAY 13, 2009) SPONSORED BY MAYOR MYERS BY REQUEST

Motion to move to public hearing date by Deputy Mayor Trefethen seconded by Councilor Cheney.

Vote: 9/0 roll call vote

5. RESOLUTION: SUPPLEMENTAL CIP APPROPRIATIONS FOR SEWER PROJECTS AND BROADWAY DRAINAGE AND AUTHORIZATION FOR PARTICIPATION IN STATE OF NH CLEAN WATER STATE REVOLVING LOAN FUND (REQUIRES A 2/3 MAJORITY VOTE) (TO BE REFERRED TO A PUBLIC HEARING ON MAY 13, 2009) (VOTE TO OCCUR ON MAY 20, 2009) SPONSORED BY MAYOR MYERS BY REQUEST

Motion to move to public hearing date by Deputy Mayor Trefethen seconded by Councilor Cheney.

Vote: 9/0 roll call vote



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C. ORDINANCES IN 1ST READING

1. ORDINANCE: CHAPTER 89 – DOGS (TO BE REFERRED TO PUBLIC HEARING ON MAY 13, 2009) SPONSORED BY COUNCILOR CARRIER

Motion to move to public hearing date by Deputy Mayor Trefethen seconded by Councilor Carrier.

Vote: 9/0 roll call vote

D. COUNCIL CORRESPONDENCE

Motion by Cheney seconded by Weston to add infared paving packet to agenda material

Vote: 9/0 roll call vote

12. COUNCIL MATTERS OF INTEREST

Councilor Cheney said that on April 27th at 7:00 pm at DPW there will be a Tolend Landfill update.

Deputy Mayor Trefethen commented on the first telephone participation meeting. Every attempt should be made to be here. Difficult to have to express to the world that you are away on vacation. Perhaps this can be told to just the City Council

Councilor DeDe said that a list of sales at Industrial Park has been provided to the Council

Councilor Weston said that the 911 renaming of streets was mentioned at the podium. There was a resolution 6/9/04 (11C1) that changed specific streets but not all of them.

Councilor Callaghan said that he would like another update on Willand Pond. The water height is a growing concern.

Mayor Myers said that the public comment period is through May 4, 2009 and we should wait until that is completed. City Manager there will be a workshop with the Planning Board in the middle of May. Suggest that the City Council attend that meeting so we don't miss any budget workshops

14. ADJOURN

Motion to adjourn by Deputy Mayor Trefethen at 10:30 pm seconded by Weston.

Vote: 8/1 roll call vote with Deputy Mayor Trefethen opposed