



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, May 27, 2009**
Meeting Time: **7:00pm**

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. PROCLAMATIONS – None

5. APPROVAL OF AGENDA

Councilor Cheney asked for Item 12.A.4. to be moved to before 11.B.1.; seconded by Councilor Scott.

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

Councilor Weston made a motion to approve 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.

Eric Steltzer, Chairman of Energy Advisory Committee: He said he wanted to talk about three different items.

- First, the Energy Efficiency Resolutions before the Council on this Agenda. He asked for the Council's support for the Consent Calendar, specifically Item #3, which is regarding the CDBG funds, which would appropriate \$85,000 for the transformers being replaced at the McConnell Center. Second, Item 11.B.1., which is accepting stimulus funds to be used for the improvements at the Wastewater Treatment Facility. He thanked Councilor Weston for bringing back the energy performance contract agreement for the Council to reconsider. He asked for the Council's support to authorize the City Manager to enter into the performance contract agreement. He reminded the Council that about 15 members of the public have come before the Council regarding the performance contract, and only 3 spoke against it.
- Second, he spoke on the actions of the Energy Advisory Committee and the direction in which they wanted to go. He said they identified four different areas that the committee will work on for this upcoming year: 1. Apple Harvest Festival, which will have a booth and will coordinate with the Chamber of Commerce to make the whole event more energy efficient. 2. Work with the Council to make sure energy, and how it is being used in the municipality, is being addressed and understood. 3. Working with the Planning Board to make the City a



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more energy efficient community. 4. Developing the City's Website to make sure the information is getting out to the public.

- Third, a State Conference regarding Local Energy Solutions on June 20th. He said it was meant for LGC members, councilors, board members, as well as City staff. He encouraged participation in this event. He said it was \$20 per person, \$35 for two people, or \$45 for three people.

Ann Schultz, 10 Roberts Road, Library Board of Trustees Member: She said she understood and appreciated the hard work the City has put into the budget this year. She said she agreed with Library Director Beaudoin's presentation, and it will be hurtful to cut the hours and staff at the Library. She hoped the Council could find a way to restore some of the cuts that have been made.

Ronald Huml, 199 Mast Road: He first wanted to talk about the energy efficiency contract. He said in going through the budget, the Council is considering the bond issue of \$2,423,485, but everybody was forgetting the interest over ten years of \$436,164. He said that makes a total commitment of \$2,859,649. He said he isn't against the energy contract, but is against the Council's method of paying for it. Secondly, he wanted to talk about the Budget. He said 95% of the Budget is based on the current year budget, and he asked if anyone has checked to see how accurate the base budget is. He went over a few examples of differences that he wanted checked, such as the reduction in health insurance, and checking automobile registration revenues this year and how they'll apply to next year.

Edward Bleiler, 28 Isaac Lucas Circle: He read his statement to the Council. He provided a copy to the Council.

David Montenegro, 55 Union Street: He said he had a minor correction in the minutes for May 13, 2009. He said the minutes said he had heard about complaints for the horses and "Binks" the goat. He said he actually said he heard complaints about the horses, and not about the goat. He complimented the City on the new website. He said the website lacks PDF formats, and he wasn't able to open the agenda materials packet. He said he was also concerned about the hours being cut at the Library.

Arthur Corte, 81 Glen Hill Road, Library Board of Trustees Member: He said he wanted to quote one statistic about the Library that the Council probably doesn't know about. He said the Library has 25,692 outstanding library cards, with 90% participation. He said it said a lot for the caliber of the Dover Library that it gets this much usage. He hoped the Council will consider putting the money back into the Budget.

Harvey J. Lynch, 26B Lincoln Street: He said some of the citizens think it would be a mistake to enter into a contract with Johnson Controls. He said the Budget is like going through an "Alice in Wonderland" budget, and asked if it could be simpler. He said a lot of the citizens can't understand it.



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Kirt Schuman, 30 Cushing Street, Dover Chamber of Commerce Executive Director: He said he had a few items. First, the Council will be hearing about the Economic Revitalization Zones within the City of Dover. He said the Chamber of Commerce supports that State funded program, as it will enable the retention and creation of jobs within the community, with zero impact to the local taxbase. He gave the Council an update. Restaurant Week is June 1st through the 7th, where the citizens can sample 12 of the City's restaurants at a very affordable price. He said he appreciated the efforts of the Energy Advisory Committee working with the Chamber of Commerce to make the 25th Anniversary Apple Harvest Day a more environmentally friendly event.

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 if anyone, Councilors and citizens, had any questions or would like some help understanding the budget, please feel free to contact his office and he will be more than happy to schedule some time to address any questions. He wanted to note that there will be two road closures. First, Atlantic Avenue is undergoing construction for the water line replacement, and will be restricted to one lane for most of the summer. He said Silver Street is also closed, where they are working on the pedestrian tunnel that is part of the Community Trail, as well as some utility work. He said there are detours to go around the section of Silver Street that is closed, and they should last about one month. He said truck traffic will be restricted, and trucks will not be able to use Silver Street, and are asked to use other exits off the turnpike. He referred to the Resolution on the Agenda, Authorizing the City Manager to apply for the Economic Revitalization (ERZ) Application. He asked Economic Development Director Dan Barufaldi to introduce the representative from the State to explain the program to the Council and to the local businesses.

Mr. Barufaldi said the economic revitalization zoned districts that we're talking about tonight, and asking the Council to approve, is a win/win situation that requires no Dover taxpayer dollars whatsoever. He said it comes from the State general funds that the City already contributes to, and this is a way to return some of those funds to the City. He said the Dover Business and Industrial Development Authority (DBIDA) and the Planning Board have endorsed this program. He introduced Christie Hartley from the State, an expert on ERZs from the Department of Resources and Economic Development. He asked her to give her presentation on ERZs and what they can do for Dover.

City Manager Joyal said this was Item 12.B.2. on the Agenda, where there was background information and maps to refer to.

Ms. Hartley said her job was to educate municipalities and businesses on different incentives set up by the State to help them grow, expand, and maybe even relocate into New Hampshire. She said she was going to talk about the Economic Revitalization Zone program. She gave a PowerPoint presentation to the Council. She invited Planning Director Chris Parker to speak to the Council on the different zones that he has created.



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Mr. Parker continued with the PowerPoint presentation, going over the areas that they are recommending for the ERZ program.

Ms. Hartley finished the PowerPoint presentation, and asked the Council if they had any questions.

Councilor Cheney asked if the Council is voting on this tonight.

Mayor Myers said that was correct.

Councilor Cheney asked Ms. Hartley if the Economic Revitalization Zones have anything to do with the tax increment finance zone.

Ms. Hartley said no, they don't.

Councilor Cheney asked Mr. Parker about the Locust Street location being rezoned.

Mr. Parker said that was attempted, but not completed.

Councilor Cheney said the concern in her Ward is the non-pervious surfaces.

Mr. Parker said that the Planning Board will be discussing, at their next meeting, bringing back the opportunity for contract style zoning. He said they have worked on a plan and will be presenting it to the Planning Board on June 9th. He said this would be a district versus a zone, and Councilor Cheney was discussing the zoning.

Deputy Mayor Trefethen moved to accept the City Manager's Report; seconded by Councilor Weston.

Vote: 9/0.

9. MINUTES

A. May 6, 2009

B. May 13, 2009

Deputy Mayor Trefethen moved for their approval; seconded by Councilor DeDe.

Mayor Myers asked the Council if they had any additions, deletions, corrections, or other changes to the Minutes.

Councilor DeDe referred to Page 19 of 19, May 13, 2009 Minutes. He said it indicated that "Mayor Myers said the constituent asked for this be read into the record," referring to Dick Lowell's letter that he read into the record. He said he actually asked Dick Lowell if he would have any problems if his letter was read into the record, and Mr. Lowell's response was, I have no problem with that. He said Mr. Lowell did not ask him to read the letter into the record and he wanted the record clear on that.

Mayor Myers asked how Councilor DeDe wanted the wording in the minutes.

Councilor DeDe said he wanted to say that he asked Mr. Lowell if it would be okay if he read the letter into the record, and his response was: "I have no problem with that." He said that is different from Mr. Lowell asking him to read it into the record.

Mayor Myers asked for a vote on the change to Minutes.

Councilor Callaghan said it should be corrected, but he didn't think the proper way was to change the Minutes. He said the Minutes reflect what was said to the best of his recollection. He said it can be corrected as part of this meeting's minutes.

Mayor Myers said the Minutes can be reviewed to find out the exact language and the Council can choose not to accept these Minutes, or the Council could choose to accept these Minutes with the understanding that the exact verbiage at that point of the meeting will be entered into it.



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Councilor DeDe said he withdrew his request, and will make a statement at Council Matters of Interest.

Mayor Myers asked Councilor Callaghan if he wanted the exact verbiage put in at that point, or if he was okay with how it reads.

Councilor Callaghan said he was okay with how it reads.

Deputy Mayor Trefethen referred to the same page, Page 19 of 19, and his comment that "it is a Planning Board Workshop", and it should read, "it should be a Planning Board Workshop."

Councilor Callaghan said he would make the same comment. He doesn't remember exactly what was said, but he suggested that the Minutes be checked against the tape.

Mayor Myers said the Council is fine with accepting that change, along with the Clerk viewing that section of the tape for accuracy.

Councilor Callaghan said he is not trying to find fault with these Minutes. He said he found the Minutes to be very accurate, almost verbatim. He said he wanted this checked, because the accuracy is usually there.

Mayor Myers asked Councilor Callaghan if he was in agreement that the Council will approve the Minutes tonight, with the exception that the Clerk will review that exact verbiage and verify it.

Councilor Callaghan said that was correct.

Mayor Myers asked for a vote on the change to the Minutes.

Vote: 9/0.

Councilor Cheney referred to Page 4 of 19, and David Montenegro's comments during Citizen's Forum. She asked that the Council honor his request and verify the minutes as well.

Mayor Myers asked for a vote on the change to the Minutes.

Vote: 9/0.

Deputy Mayor Trefethen made a motion to approve the Minutes; seconded by Councilor McCusker.

Vote: 9/0.

10. MAYOR'S REPORT

Mayor Myers said he continues to do ribbon-cuttings for the Chamber of Commerce, and it was good to see businesses still opening in the City. He said he did an open-mike show on WTSN with Mike Pomp, and expressed his appreciation for being invited on the show, and for the folks who called in. He spoke about his Coffee with the Mayor session, and thanked Café on the Corner for hosting the event. He said he attended a 5th grade *DARE* graduation for the Dover Middle School and St. Mary's. He spoke about attending the Gundalow reception, while the Gundalow was in Dover last week. He echoed Kirt Schuman's comments about Dover Dines, and said it was a great opportunity to try new restaurants or go back to old favorites. He said he had attended the Memorial Day Ceremony at Pine Hill Cemetery.

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

Vote: 9/0.



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11. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2ND READING – NONE

12.A.4. RESOLUTION: B09052 WWTP SLUDGE DEWATERING UPGRADE STUDY SPONSORED BY MAYOR MYERS BY REQUEST

Voted to move this Resolution to this location on Agenda.

Deputy Mayor Trefethen moved for its adoption; seconded by Councilor Cheney. Councilor Cheney said she has been getting feedback from constituents about sludge being moved to the Tolend Road Landfill. She also referred to Page 80 of the Johnson Controls contract, which talked about sludge management and how the City is not doing it the right way. She said the City has to be careful what changes are made to the improved buildings that are included in the energy audit. She said the Wastewater Treatment Plant is being put in the contract, but not the sludge dewatering upgrade. She asked if this study will compromise what kind of solution might come from the study, if it will affect the Johnson Controls contract, and if it will compromise the payback period.

City Manager Joyal said the City is not hauling sludge from the Wastewater Treatment Plant to the Tolend Road Landfill, but is bringing compost. He said this management process study is not related to the Johnson Controls contract, other than that Johnson Controls is aware that the City is investigating a different process that what is being used now. He asked Community Services Director Doug Steele to address this issue.

Mr. Steele said the sludge study entails bringing in three different types of equipment to dewater the City's sludge. He said they are mobile units, and the engineering firm that the City is proposing will oversee these trials, assist the City with evaluating them, and then come up with an estimated cost to put the system in place. He said it would also include an operational cost over the next 20 years. He said the current dewatering unit the City has only gets a 15% sludge cake, which makes it expensive to remove because there is still a lot of water weight to it. He said at this point in time composting is the most cost effective method for the City to dispose of or treat the sludge. He said with the new technologies the City may find it is less expensive to landfill it, and that there is even talk of a regional facility being built where the material could be pelletized and burned as a fuel source. He said this study would help the City see which direction would be the best.

Councilor Cheney asked if this study is going to give the City a cost analysis, or if he foresaw that there would already be savings.

Mr. Steele said without even doing the study they know it would be less costly over time for the City's sludge disposal costs, because we'll be getting a 30% to 40% sludge cake, as opposed to 15%. He said we know we are going to get better performance with better equipment. He said the equipment is self-cleaning and self-contained, with fewer odors in the building. He said the technology has come a long way in the past 20 years when the current system was put in place. Councilor Cheney asked if this was in the CIP, or if it was from the audit.

Mr. Steele said it was in the CIP. He said for 2010 there was \$50,000 for the study, and there was \$2 million proposed in 2012 for the equipment replacement.



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Deputy Mayor Trefethen asked about the compost that is generated. He asked if right now the City is making more than the City can use or sell.

Mr. Steele said that was correct.

Deputy Mayor Trefethen said this study looks into other uses for this cake.

Mr. Steele said there was potential for other uses.

Deputy Mayor Trefethen asked if there will still be some compost available for use by the citizens.

Mr. Steele said not necessarily. He said they might find it is more cost effective to shut the composting operation down, and do something else with the sludge. He said the study will help the City determine which is the best avenue to go.

Deputy Mayor Trefethen said he has used several utility trailers full of compost. He said he had to sign in to get it, and he is always amazed at the list of people. He said it was great stuff.

Mr. Steele said people continue to refer to it as sludge, but it is a composted bio-solid and a safe, usable product.

Mayor Myers said obviously if the City continues to landfill it, then the more water that is taken out, the more money is saved.

Mr. Steele said that was correct. He said right now the current method of composting is about 1/3 of the cost for landfilling it.

Mayor Myers asked for a Roll Call Vote on this Resolution.

Roll Call Vote: 9/0.

B. RESOLUTIONS

**1. 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)
SPONSORED BY MAYOR MYERS BY REQUEST**

Deputy Mayor Trefethen moved for its adoption; seconded by Councilor DeDe. City Manager Joyal said this was the means by which the State is distributing its stimulus funds, using a revolving loan fund. He said the City is looking to participate, if it should prove to be financially advantageous to the City. He said by all accounts it will. He said the program is such that the City will construct these projects, which are currently in the works, and apply for a loan from the State. As part of the loan process, the State will provide the City with the funds, and cover 50% of the principle cost over the life of the loan. Essentially the State is funding half the project.

Deputy Mayor Trefethen said the State is reimbursing the City over a number of years, and asked the City Manager if the State is putting that money aside somewhere so they can draw on it for the duration of the bond.

City Manager Joyal said he understood that the State was receiving a sum of money that they are putting into a pool, that they are loaning out a portion of that money, and as it is returned they will forgive 50% of the principle, because they will have that amount of money on hand. He said the State is essentially banking the money, securing the interest off the money, and making it available for future loans.



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Councilor Cheney said the City still has to pay interest. She says she supports the energy retrofit, but has not supported the energy contract. She asked what amount was being matched.

City Manager Joyal said all loans are 50% forgiveness of the principle.

Councilor Cheney said she planned and will support this Resolution.

Mayor Myers asked for a Roll Call Vote on this Resolution

Roll Call Vote: 9/0.

2. AMENDMENT TO COUNCIL RULES – RULE 2 – COUNCIL MEETINGS SPONSORED BY COUNCILOR CALLAGHAN

Councilor Callaghan moved for its adoption; seconded by Councilor Scott.

Councilor Callaghan said this Resolution was self-explanatory in the background information. He said for some of those who are not kept in the loop, it has not been the most efficient way or effective way for Councilors to work together as a group for the best interests of their constituents. He referred to the intent of the New Hampshire Constitution, that talk about accountability and responsiveness, and that it can be challenged, whereby the Council is not communicating equally when that ability exists to do so. He said there could also be a perception that leaving out certain parts of the political body is a form of discrimination. He said this Resolution sets the standard for utilizing the electronic methods as stated in the Resolution. He referred to the Dover Discussions meeting for Wards 5 & 6, and spoke about a constituent referring to questions in an email he sent to the whole Council. He said constituents can't reach him and think they are being ignored. He said whether the Council agreed or disagreed as to the reason, the Council is in this position, and they have to bite the bullet to do business effectively.

Councilor McCusker asked the City Manager how many Council terms he has been involved with since he has been employed with the City.

City Manager Joyal said he has worked with the City since 1992, 18 years, which is equaled to 9 terms.

Councilor McCusker asked if a City email address has always been available to Councilors.

City Manager Joyal said City email has been available since the 1990's, 4 or 5 terms.

Councilor McCusker asked if any Councilors had opted not to use the City email server.

City Manager Joyal said the system has changed, so we're not comparing apples to apples. He said all Councilors, except for this term, have all had a City email address.

Councilor McCusker asked if anyone, besides this term, have opted not to use that access.

City Manager Joyal said they have had councilors who did not have computers, or the ability to access their email. They had an email address, and the City made arrangements for them to get hard copies.

Councilor McCusker said they could utilize it, but not on their own computers.

City Manager Joyal said they didn't have computers.

Councilor Cheney said the Councilor is not talking about email here, and is talking about the New Hampshire Constitution, RSA 91-a, about a constituent's rights to due process



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and access to their representative. He needs the information that is disseminated to the rest of the Council, and he has adequately provided the City with means and methods to get that information to him. She felt it was the Council's duty, out of respect for each other, to include him. She said Councilor Keays didn't have email, and they were printed out for him. She said Councilor Callaghan wants his emails delivered a certain way. She said she filled out the Councilor Biography, which asked for personal information to be put on the website, but they won't put our personal emails on the website. She said it didn't make sense, and it was politics at its worst. This said, this is an easy choice. She said Councilor Callaghan is asking for a way to communicate with the Council. She said she would support this Resolution.

Deputy Mayor Trefethen said he agreed with Councilor Cheney up until her last few comments. He said it is an easy choice, and there was no unequal bias here. He said the fact that two Councilors do not get their emails through the City server is not the Council's choice, but their choice. He said the Council did not exclude anyone, rather they excluded themselves. He said, using Councilor Callaghan's own words, bite the bullet and sign the Internet Policy Agreement. He said the words in the Resolution, "your best efforts," would be to sign the Internet Policy Agreement.

Councilor Weston said she agreed that it was the choice of those Councilors not to use the City email accounts. She said her interpretation of the Resolution was that they wanted to be in on the group emails for the Council, so they could do their job and get information. She didn't have a problem with this Resolution at all.

Councilor Callaghan referred to Councilor Keays' situation, and how he was given special consideration. He said since he made the choice not to use the City server, the City had to find a way to deal with that. He said it is merely a tug of war over egos, and who is suffering; the constituents. He said this Resolution was an opportunity to show the citizens that the Council does care. He said at no expense to anybody this problem can be fixed, and the Council can move on.

Mayor Myers said the Council has had a policy to only publish City email addresses for the last six years, so that there is a record of it, and it accessible if there is a request. He said any email that is sent to the Council through the City server is archived. He said he had two issues with the language of the Resolution: First, on the first page, under the second Now Therefore where it says: "Each Councilor shall use his or her best efforts to provide in a timely, fair, equitable, and complete manner information, research and other pertinent materials regarding the business of the Council to all appointed and elected officials..." He said one could read that to mean if he sent a one-on-one email to Councilor Scott, that he would be required to send that to every other Councilor, because he needs to provide information and materials regarding the business of the City in an equitable manner. There would be no more one-on-one, Councilor-to-Councilor information. He said if a constituent sent him an email about a concern they had, it would be incumbent on him, according to this Resolution, to share that information with the entire Council. He said there would be no more privileged information. He referred to the last page of the Resolution where it read: "Exclusion of Councilors in the sharing of information, opinions, research...does not fulfill the goal of serving the citizens of Dover." He said that again eliminates any one-on-one councilor communication, which is perfectly allowable by law. He said he would not support this



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Resolution, because the Council has a policy, but he was also not supporting it based on the language.

Councilor Cheney said she would support amending some of the language in the Resolution, so that the Mayor would consider supporting it. She said she knew the intent was if the quorum of the body be carbon-copied or addressed in an email in any form, that all councilors should receive it. She said she signed the Oath of Office when she was elected. Councilor Callaghan didn't choose to sign a policy that originally was intended for employees. She said she pointed out that the language wasn't applicable to the Councilors, and the policy was rewritten with language that some Councilors would not sign for. She said Councilor Callaghan ran for office, received the votes, and he did take the Oath of Office. She said it was Councilor Scott who had the Oath of Office rewritten a few years ago. She said everyone deserves to get the news that is disseminated to this body.

Mayor Myers said the Council rules state that it has to be submitted in writing, unless the Council votes unanimously to do something different.

Councilor Callaghan said he understood the Mayor's statements about the language of the Resolution, and that changes had to be made in writing. He mentioned the changes he would suggest.

Mayor Myers said he wanted to see it in writing, but he would still be opposed to the Resolution because the Council did set a policy to do business on the City email. He said the Councilors have the ability to access the City server, or to forward it to any other device they want to through the City server.

Councilor Callaghan asked to pull the Resolution, and he would rewrite it to bring back to the Council.

Mayor Myers said because the Resolution has been discussed, he must ask the Council if they were opposed to the Resolution being withdrawn.

Councilor DeDe said he was opposed.

Deputy Mayor Trefethen said the majority of the Council voted on a policy. He said this Resolution is an end run around the policy. He said the Councilor should bring the policy before the Council again to be voted on. He said he had no clue what was intended with this Resolution until he saw the article in the newspaper that said it was about email.

Councilor DeDe said he was opposed to the Resolution being withdrawn because the Council has wasted enough time on this issue. He made a motion to move the question; seconded by Councilor McCusker.

Mayor Myers asked for a vote on moving the question.

Vote: 5/4; Passed. Councilors Callaghan, Cheney, Scott and Weston were opposed.

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

Roll Call Vote: 4/5; Failed. Councilors Callaghan, Cheney, Scott and Weston voted in favor.



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12. NEW BUSINESS

A. CONSENT CALENDAR

1. **PARADE – Garrison School Boot Camp**
2. **TAG – Dover Girl Scout Troop 22491**

3. **RESOLUTION: MODIFICATION OF THE ACTION PLAN AND EXPENDITURES FOR THE FISCAL YEAR 2008 CDBG ENTITLEMENT FUNDS**
SPONSORED BY MAYOR MYERS BY REQUEST

4. **RESOLUTION: B09052 WWTP SLUDGE DEWATERING UPGRADE STUDY**
SPONSORED BY MAYOR MYERS BY REQUEST

Council voted to moved up on Agenda to after 11.A.

5. **RESOLUTION: B09069 PURCHASE OF AMBULANCE**
SPONSORED BY MAYOR MYERS BY REQUEST

6. **MERIT PLAN – CLASSIFICATION AND PAY PLAN**
SPONSORED BY MAYOR MYERS BY REQUEST

7. **STORMWATER FEASIBILITY STUDY**
SPONSORED BY MAYOR 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. Legislative Liaison |
| 6. Cable Franchise Negotiations Committee | 13. Coast Bus |
| 7. School Board Liaison | |

Deputy Mayor Trefethen moved for the adoption of the Consent Calendar; seconded by Councilor DeDe.

Mayor Myers asked the Councilors if they had any items they would like pulled for further discussion.

Deputy Mayor Trefethen asked to pull 12.A.5., because it needs to be voted on separately to be referred to Public Hearing on June 10, 2009.

Councilor Callaghan asked to pull 12.A.6.

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

Roll Call Vote: 9/0.



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Deputy Mayor Trefethen moved to refer 12.A.5. to a Public Hearing on June 10, 2009; seconded by Councilor DeDe.

Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of 12.A.6.; seconded by Councilor Carrier. Councilor Callaghan said he was not going to approve this Resolution, because it has a few things he doesn't agree to. He said one of them is the Deputy Community Services Director, which appears to be a new position.

Councilor Cheney said she is also worried that the City is adding a lot of new positions that she doesn't approve of.

Councilor DeDe said in reading the background material for this Resolution, it says there is one position being created: Assistant Recreation Director.

City Manager Joyal said that was correct.

Deputy Mayor Trefethen wanted to clarify that the Deputy Community Services Director position was already in the Merit Plan.

City Manager Joyal said that was correct.

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

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

B. RESOLUTIONS

1. AUTHORIZATION FOR CITY MANAGER TO ENTER INTO CONTRACT WITH JOHNSON CONTROLS SPONSORED BY COUNCILOR WESTON

Councilor Weston moved for its adoption; seconded by Councilor McCusker. Councilor Weston said she has done tons of hours of research on this issue. She said she was in favor of it, but had some questions on it. She said as soon as she received answers she wanted to bring it back before the Council. She said it has to be realized that it's not dollar savings, but unit savings. She also had a major concern with the financial feasibility of Johnson Controls, which is connected with General Motors and Chrysler. She said she was happy they went over the contract, because they found one bond that was not covered. She said Johnson Controls has agreed to come forward with a surety bond or payment bond. She read an email that was forwarded to her by the City Manager. She said Johnson Controls had said they will absorb the cost of the bond. She said there is a guaranteed savings bond, a performance bond guaranteeing that work is completed, a payment bond for subcontractors, and a surety bond that will pay the difference if Johnson Controls goes bankrupt. She said she hoped to get a summary each and every year of the unit savings. She also asked for an update on the chart for the payback, and what is the initial amount that is going to be bonded. She said the original contract was for \$2.4 million, and the Resolution which will be going to Public Hearing is for \$1.92 million. She said with the money saved by 12.A.3. the new bond amount will be \$1,836,765, saving 25% of the initial contract. She said the original payback was 7.2 years, and is now 6.3 years. She said her questions were answered, and it will be saving the City money and have protection on every angle that could be



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thought of. She is concerned with more debt, but the City will have savings. She said there were mistakes with Siemens, and they did give us checks. She referred to Mr. Huml's statements about where the savings will go, because it is not revenue. She said the savings will buy down the payback, and not money that can be put into an account. She said the City is going to save money, and she fully supports this Resolution. She said the City can't afford to wait any longer on this, because she didn't want to risk losing stimulus funds.

Councilor Carrier asked the City Attorney if he has reviewed the bond security proposal. City Attorney Krans said he has seen a proposal. He said the important thing is that there will be a surety bond that will be reviewed periodically as we go through the contract.

Councilor Cheney said the City is going to have a 10-year obligation in this energy contract. She felt it could have been done separately. She said the Council didn't know what kind of mandates will come down. She said this will increase her tax bill by \$30, so the City can save some money, which she'll never see the revenue stream from. She said even though the State has a debt limit of 3% of our assessed value, the Council has a set policy of 65% of that amount. She said right now the City is at 32% unused, and with this bonding it is going to get to 26% unused. She spoke of products put off in the CIP. She said the roads are an issue of safety and infrastructure. She referred to the energy efficiency contract: Page 4, where the City has to prove any conflicts; Page 8, the energy avoidance cost being 12 months from the effective date, which is the date of signing the contract; Page 9, we cannot use their technology to figure the cost savings or shortfalls, and the City has to notify them within 90 days. She said the City is going to get reports from Johnson Controls every three months, the figures have to be verified, and we're going to have to hire someone. She said it was her opinion that any savings realized will be rolled into supporting this new branch of government, but also that there is going to be more.

Councilor Callaghan said his position has not changed.

Mayor Myers thanked Councilor Weston for looking into this and bringing it back before the Council. He said it was not an accurate statement that it will cost \$30.00 per year to do this. He said it was strictly what it would impact the tax rate just for the bonding, and doesn't realize the savings that will be generated.

Councilor Weston wanted to clarify two things. The contract is not compromised by the replacement of the furnace in the Library, because it was built into their report. She said Johnson Controls is going to measure at the meters, and if the savings are not there it is going to be them that are going to fix it.

Mayor Myers asked for a Roll Call Vote on this Resolution.

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

2. AUTHORIZING THE CITY MANAGER TO APPLY FOR THE ERZ APPLICATION SPONSORED BY MAYOR MYERS BY REQUEST

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

Mayor Myers said this had nothing to do with rezoning. He said it was positive for the City.



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Deputy Mayor Trefethen said it was also presented to the Planning Board, and they recommended that the City do this.

Mayor Myers asked for a Roll Call Vote on this Resolution.

Roll Call Vote: 9/0.

3. SUPPLEMENTAL GENERAL FUND CIP APPROPRIATION FOR ENERGY EFFICIENCY PROJECTS AND AUTHORIZATION FOR BONDING (TO BE REFERRED TO PUBLIC HEARING ON JUNE 10, 2009)
SPONSORED BY COUNCILOR WESTON

Deputy Mayor Trefethen moved to refer this Resolution to a Public Hearing on June 10, 2009; seconded by Councilor Weston.

Councilor Weston wanted to amend the number so it will be correct for the Public Hearing. She said the new number will be \$1,836,765.

Councilor DeDe seconded her amendment.

Mayor Myers asked for a vote on the amendment to the Resolution.

Vote: 9/0.

Mayor Myers asked for a vote on referring this Resolution to a Public Hearing on June 10, 2009.

Vote: 9/0.

C. ORDINANCES IN 1ST READING

1. CHAPTER 58, ALARMS AND SECURITY (TO BE REFERRED TO PUBLIC HEARING ON JUNE 10, 2009)
SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved to refer this Ordinance to a Public Hearing on June 10, 2009; seconded by Councilor McCusker.

Vote: 9/0.

D. COUNCIL CORRESPONDENCE

Councilor Cheney asked that Mr. Bleiler's written statement be put into Council Correspondence.

Mayor Myers said he read it into the record.

Councilor Cheney asked to have the newspaper articles put in Council Correspondence.

Deputy Mayor Trefethen said he didn't have an issue with putting Mr. Bleiler's written commentary into Council Correspondence, but he felt the newspaper articles were not Council Correspondence.

Councilor DeDe said he wanted it clarified that it was an opinion letter, because there were several items in the letter that were not factual.

Councilor Callaghan said he felt the newspaper article needed to be included, because it is attached to his correspondence.



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Councilor Cheney made a motion to include the entire package from Mr. Bleiler as Council Correspondence; seconded by Councilor Scott.

Vote: 8/1; Passed. Deputy Mayor Trefethen was opposed.

13. COUNCIL MATTERS OF INTEREST

Councilor DeDe referred to the Minutes from May 13, 2009, where it said that Mr. Lowell had asked him to read his letter into the record. He said he actually asked Mr. Lowell if he could read the letter into the record.

Councilor Callaghan asked to make a request of the City Attorney to provide a written opinion about conflicting languages within the Charter; specifically C7-3, which was written in 1990, versus an adoption made in 2005.

Mayor Myers asked for a vote on getting a written opinion from the City Attorney.

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

Councilor Callaghan asked to make a request of the City Manager to provide a response to all of Mr. Bleiler's questions in his correspondence to the Council.

City Manager Joyal said he is putting together a table, by the end of the week, to prove that Department Head's and himself are actually taking pay cuts.

Councilor Callaghan referred to his questions about DBIDA at the last Regular Meeting, and asked to have the remaining documents provided by the City Manager.

Councilor DeDe asked what the purpose was of the original request. He felt the Councilor was on a fishing trip.

Councilor Callaghan said it began a few months ago when the Council was reviewing the property ordinance. He said he was concerned with DBIDA's autonomy in selling City property.

Mayor Myers said he was uncomfortable with giving that direction without seeing the specific questions. He encouraged the Councilor to bring it up at the next meeting in writing.

Councilor Cheney said the City Manager used to respond to one Councilor's request. Now it has to be the will of the Council. She said his vote still counts, even if he is outnumbered.

Mayor Myers said the Council always gets a flow of information from the City Manager and Department Heads. He said for one Councilor to ask for information in a specific format that cannot easily be done, it needs to be the direction of the Council as a body to request that information. He said he wanted to see what is being requested and if it can easily be done he will be the first one to support the request.

Councilor Cheney said she hasn't seen anything unreasonable.

Mayor Myers said the Council has said no to requests that were felt to be unreasonable.

Deputy Mayor Trefethen said he was concerned at what is happening to the minutes. He said the purpose of having the minutes drafted and then on the agenda to approve is to take the opportunity to amend them if something is wrong. He said if there is resistance to amending the minutes, then there is no point in going through the exercise of approving them. He used Councilor DeDe's amendment to the minutes as an example, and said they didn't change the course of events. He said the change he wanted didn't change anything. He said we don't always say exactly what we meant, and this is an opportunity to clarify that. He said there seems to be a resistance to allowing any change. He said he would understand resisting change if the Council was talking about fire trucks and the Councilor wanted it changed to police cars. He said minor changes to the record should be allowed, and unless there is a substantive change to the



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record, he wouldn't know why anyone would object to that. He felt there was something going on where something can't be changed, and he didn't feel it was right. Councilor Weston requested the City Manager to forward the new updated chart to the Council.

14. ADJOURN

Councilor DeDe motioned to adjourn; seconded by Deputy Mayor Trefethen.
Vote: 9/0.