



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, June 10, 2009**  
Meeting Time: **7:00pm**

### 1. MOMENT OF SILENCE

### 2. PLEDGE OF ALLEGIANCE

Councilor Scott 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

Mayor Myers issued a proclamation to Thomas Hindle.

### 5. APPROVAL OF AGENDA

Councilor Weston made a motion to approve the Agenda; seconded by Councilor DeDe.

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.*

**Donald Cichon, 250 Locust Street, Member of Trustees of the Trust Funds:** He said he was present with Mr. Earle Goodwin to answer questions for Items 7.A. and 11.A. on the Agenda.

**David Montenegro, 55 Union Street:** He spoke about the City saving money by using open source software.

**Aviva Grasso, 1 Pebble Hill Drive, Member of Good for Dover:** She spoke of the work being done on the Community Trail. She said the old railroad bridge could now be crossed on foot, and progress was being made on Silver Street. She reminded the citizens that this project was being done with Federal funds and some car registration fees. She said the waterfront land development agreement has been signed.

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



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, June 10, 2009**  
Meeting Time: **7:00pm**

### 7. PUBLIC HEARINGS

**A. ORDINANCE: CHAPTER 3, ADMINISTRATIVE RULES**  
SPONSORED BY MAYOR MYERS BY REQUEST

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

**B. ORDINANCE: CHAPTER 58, ALARMS AND SECURITY**  
SPONSORED BY MAYOR MYERS BY REQUEST

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

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

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

**D. RESOLUTION: SUPPLEMENTAL GENERAL FUND CIP APPROPRIATION FOR ENERGY EFFICIENCY PROJECTS AND AUTHORIZATION FOR BONDING (TO BE VOTED JUNE 24, 2009)**  
SPONSORED BY COUNCILOR WESTON

**William Garrison, 4 West Concord Street:** He said he supported the Energy Efficiency Contract, and that the majority of the citizens have supported this project. He gave kudos to Councilor Weston for obtaining the surety bond, and felt it was an added benefit. He hoped the Council will support it.

**Aviva Grasso, 1 Pebble Hill Drive, Member of Good for Dover:** She said a lot of the members were in favor the Energy Efficiency Project. She hoped the Council will support it.

**Gary Green, 18 Footbridge Lane:** He said he was really pleased that the Council brought this Resolution back. He did agree that this Resolution was better than the previous one, but he had supported the Energy Contract since the very beginning.

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

### 8. CITY MANAGER'S REPORT

City Manager Joyal said he would answer questions on his City Manager's Report. He just wanted to remind the citizens that the City of Dover will be hosting the Soap Box Derby on Sunday. He said a portion of Central Avenue will be closed from early in the morning to later in the afternoon.

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

Vote: 9/0.



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, June 10, 2009**  
Meeting Time: **7:00pm**

### 9. MINUTES

- A. **May 20, 2009**
- B. **May 27, 2009**

Deputy Mayor Trefethen moved to approve the Minutes; seconded by Councilor Carrier.  
Vote: 9/0.

### 10. MAYOR'S REPORT

Mayor Myers thanked the Willand Pond workshop participants. He said he attended the kickoff for Dover Dines Week at the Dover Brickhouse. He spoke of the exhibition at the Woodman Institute about President Lincoln's visit to Dover in the 1860's. He said Mr. Hindle and his volunteers did a fantastic job. He spoke of the Dover Business and Industrial Development Authority (DBIDA) meetings and the economy in Dover, which continues to perform in a down economy.

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

### 11. UNFINISHED BUSINESS

#### A. ORDINANCES IN THE 2<sup>ND</sup> READING

##### 1. CHAPTER 3, ADMINISTRATIVE RULES

SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved for its adoption; seconded by Councilor DeDe.  
Mayor Myers said this Ordinance dealt with the Board of Trustee membership, changing it from 3 to 5 members.  
Roll Call Vote: 9/0.

##### 2. CHAPTER 58, ALARMS AND SECURITY

SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved for its adoption; seconded by Councilor DeDe.  
Mayor Myers said this Ordinance change involved raising the service charge for false alarms to \$75.00 when it was in excess of three false alarms. He said the final change was a service charge amount that was changed to \$30.00.  
Roll Call Vote: 9/0.



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
 Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
 Meeting Date: **Wednesday, June 10, 2009**  
 Meeting Time: **7:00pm**

### B. RESOLUTIONS

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

Deputy Mayor Trefethen moved for its approval; seconded by Councilor Carrier.  
 Roll Call Vote: 9/0.

### 12. NEW BUSINESS

#### A. CONSENT CALENDAR

1. **BLOCK PARTY – Dover Chamber of Commerce**
2. **RAFFLE – Dover Chamber of Commerce**
3. **TAG – Dover Little Green Cheerleading**
4. **RESOLUTION: B08093 AWARD OF SHORT PAPER FIBER  
 SPONSORED BY MAYOR MYERS BY REQUEST**
5. **RESOLUTION: DOG WARRANT  
 SPONSORED BY MAYOR MYERS BY REQUEST**
6. **RESOLUTION: B09020 CHANGE ORDER TO PO 30-254818 CONSTRUCTION  
 OF NHDOT BRIDGE 136-123 WASHINGTON STREET OVER COCHECHO RIVER  
 SPONSORED BY MAYOR MYERS BY REQUEST**
7. **RESOLUTION: TRANSFER OF APPROPRIATION – GENERAL FUND  
 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             |
| <b>5. Planning Board</b>                  | 12. Legislative Liaison                  |
| 6. Cable Franchise Negotiations Committee | 13. Coast Bus                            |
| 7. School Board Liaison                   |  |

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

Mayor Myers asked the Councilors if they had any items they would like to remove from the Consent Calendar for further discussion.

Councilor Callaghan asked to remove Item 12.A.7.



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, June 10, 2009**  
Meeting Time: **7:00pm**

Councilor Weston asked to remove Item 12.A.1.  
Deputy Mayor Trefethen asked to remove Item 12.A.4.  
Councilor Cheney asked to remove Item 12.A.6.  
Mayor Myers asked for a vote on the remaining items of the Consent Calendar.  
Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 12.A.1.; seconded by Councilor Weston.  
Councilor Weston wanted to clarify that the dates were from July 3<sup>rd</sup> through August 14<sup>th</sup>.  
Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 12.A.4.; seconded by Councilor Carrier.  
Deputy Mayor Trefethen asked the Community Services Director, Doug Steele, what the change did to the quality or usability of the compost.  
Mr. Steele said it would have no effect on the final product of the compost. He said the reason this was being done was because the price and availability of sawdust is so costly and difficult to get. He said it would still be a fine usable product  
Deputy Mayor Trefethen asked if it meant there would be no sawdust in the compost.  
Mr. Steele said that was correct. He said there may be a small amount of wood chips, but they were planning on eliminating sawdust.  
Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 12.A.6.; seconded by Councilor DeDe.  
Councilor Cheney asked for clarification on the contingency funds and the dates on the paperwork. She also asked why it wasn't foreseen by Engineering.  
City Manager Joyal said this was the Washington Street Bridge project, which extends lower Washington Street to the River Street parcel. He said when the Council approved the purchase order to begin the construction, there was an amendment to reduce the contingency amount that was in the contract. He said in the process of completing the design work for the Washington Street Bridge, there was a series of borings that were done where the abutments need to go. He said the abutments were designed based on the findings of those borings. He said when the contractors began to start work on the project they discovered the ledge was more substantial or more variable in its height than was anticipated in the original design specifications, which caused some complications. He said the contractors need to deal with real conditions. He said they actually negotiated a price that is less than originally presented. He said it has been shown to the State, and it has been confirmed that they will cover 80% of the costs.  
Councilor Cheney asked if there would be additional costs for the time delay.  
City Manager Joyal said no. He said the project has been proceeding on schedule.  
Councilor DeDe thanked Engineer Dave White for his background information on this project.  
Councilor Callaghan said it was troubling that the engineering firm did not find this earlier and asked if there was any liability for them.  
City Manager Joyal said it was not an oversight. He said it was designed from field samples.  
He said this was a common occurrence in this part of the State.  
Roll Call Vote: 9/0.



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, June 10, 2009**  
Meeting Time: **7:00pm**

Deputy Mayor Trefethen moved for the approval of Item 12.A.7.; seconded by Councilor Callaghan.

Councilor Callaghan said he remembered last year that funds couldn't be moved until the audit was completed. He said he found it troubling that it was possible this year to do it now, and that the amount is known before the year is completed. He said if these funds were really available that they should go back to the taxpayer.

City Manager Joyal said he felt Councilor Callaghan was confusing this Resolution with another one on the Agenda. He said this Resolution dealt with projections for year end. He spoke of the ice storm, fire department personnel, and increased snow removal costs. He said department heads made adjustments and reduced expenditures in operations at his request. He said this Resolution was routine to balance books.

Mayor Myers asked the City Manager where money was saved.

City Manager Joyal said it was from delaying the hiring of personnel and of purchases, which add up.

Councilor Cheney said she wanted the specific account numbers that were over. She also asked if these amounts show up in the Actual on next year's budget.

City Manager Joyal said the amount actually spent is what shows up as an Actual.

Councilor Cheney said she was also having difficulty with this, and felt it should be returned to the taxpayers.

Councilor Scott said this raises questions on how the City interacts with the Department of Revenue, who sets the tax rate. He said the City is not reporting all the revenues, which could have lowered the tax rate. He referred to the City Manager's Report and asked why services were almost doubled.

City Manager Joyal said he felt there was some confusion with this Resolution. He said he felt Councilor Callaghan was addressing the wrong Resolution. He said this Resolution was an authorization to address unanticipated expenses in some accounts that would be made up with savings the departments had adjusted for. He said this was not about returning funds, but covering already incurred expenses with intentionally held back revenue. He referred to Councilor Scott's question about services, and said the difference was because the original budget that was adopted by the Council did not include the Ice Arena. He referred to the Table on Page 38, which showed the revenue associated with the Arena.

Councilor DeDe said this Resolution was responsible city management and makes appropriate adjustments. He asked the Council to support it.

Councilor Cheney said it seemed like housekeeping and ordinary, but she wanted to know where money was saved. She said it would be helpful to have details, amounts and account numbers.

Councilor Callaghan said he wanted to know where the money was coming from. He said during the budget process he suggested money be taken out of the budget to cover the additional items being put back in, and was told there was no money, but apparently there was. He said he wouldn't be supporting this Resolution.

Councilor Scott said he didn't support the Resolution, because he felt the Council needed to know more details.

City Manager Joyal said all of this information is available to the Council and citizens in financial statements that are compiled every month. He said once the books are closed he will provide to the Council a line-by-line description of where the money came from and where it was



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, June 10, 2009**  
Meeting Time: **7:00pm**

transferred. He said the Council received that last year, and the year before that, and the Council will receive it this year.

Councilor Scott referred to Page 36 of the City Manager's Report, Recreation Budget, which showed the original budget was \$1.3 million, and the adjusted budget is \$2.9 million, \$1.6 million more than the original budget, and the debt service transfer was about \$1 million.

City Manager Joyal referred to Page 38, which separated out the Arena expenses. He said it excluded debt service, because debt service is not charged to Recreation.

Councilor Scott asked about the Community Services Department where the original budget was \$5.4 million, and the adjusted budget was \$5.9 million.

City Manager Joyal said the City had encumbrances that carry over from year to year, capital projects and capital outlay, which do not expire at the end of the year. He said those funds carry over into the following year so they are available to the projects for which they were originally budgeted. He said they were commitments made in the prior year, but the bill may not have been paid yet.

Deputy Mayor Trefethen said he had heard several times a request to give the money back to the taxpayers. He said there were only two times the Council can do this. First: during the budget process, which the Council just finalized, by having a resolution or amendment to take money from fund balance and basically use it as revenue against next year's taxes, and therefore lower the money that would have to be raised for taxes. Second: the Council can put in a resolution at any time of the year to use fund balance, but it requires six votes. He said that was not giving money or rebates back to anybody.

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

### B. RESOLUTIONS

- 1. REPROGRAMMING OF UNEXPENDED BOND PROCEEDS – FISCAL YEAR 2010  
TOLEND ROAD STREET IMPROVEMENTS CIP PROJECT TO GENERAL  
STREETS IMPROVEMENTS CIP PROJECT  
(TO BE REFERRED TO A PUBLIC HEARING ON JUNE 24, 2009)  
SPONSORED BY MAYOR MYERS**

Deputy Mayor Trefethen moved to refer this Resolution to a Public Hearing on June 24, 2009; seconded by Councilor DeDe.

Vote: 9/0.

- 2. FISCAL YEAR 2009 TRANSFER OF APPROPRIATION – GENERAL STREETS  
CAPITAL OUTLAY – GENERAL FUND OPERATING BUDGET  
(TO BE REFERRED TO JUNE 24, 2009 COUNCIL MEETING FOR VOTE)**

Deputy Mayor Trefethen moved to refer this Resolution to a June 24, 2009 vote; seconded by Councilor DeDe.

Vote: 9/0.



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, June 10, 2009**  
Meeting Time: **7:00pm**

### **B. ORDINANCES IN 1ST READING – None**

### **C. COUNCIL CORRESPONDENCE – None**

### **13. COUNCIL MATTERS OF INTEREST**

Deputy Mayor Trefethen made a motion to suspend the rules. He asked to release the legal opinion from the City Attorney dated June 9, 2009. Councilor Weston seconded the motion to suspend the rules.

Roll Call Vote: 9/0.

Deputy Mayor Trefethen made a motion to release the City Attorney's legal opinion dated June 9, 2009, and place on file for public inspection; seconded by Councilor Weston.

Mayor Myers said this would require a 2/3 vote, because it wasn't properly placed on the Agenda. Councilor Callaghan said he didn't see where it had to be posted, and felt the Council didn't have to suspend the rules. He said it could be brought up during Council Matters of Interest.

Mayor Myers said items can be discussed during Council Matters of Interest. He said for an item that requires a vote and is not on the Agenda, we certainly need to suspend the rules to bring something forward. He said it takes the additional step of a 2/3 votes because there was no public notice that it was going to be on the Agenda.

Councilor Callaghan asked where that was in the Council Rules, Robert's Rules, or in RSA 91-A. He said it merely says that the Council must post an Agenda. He said he was going to vote to release the legal opinion, but he questioned the suspension of the rules.

Mayor Myers said that was his interpretation, and as the Chair for this Body it was part of his job to determine that. He said the Council can object, and if there is a second to that objection, then the Council can vote to overrule his determination of the interpretation of the rules.

Mayor Myers asked for a vote on releasing the City Attorney's legal opinion dated June 9, 2009. He said again that it was his determination that it required 6 votes.

Councilor Cheney said she supported this motion.

Roll Call Vote: 9/0.

Councilor Callaghan requested that the City Attorney provide an opinion on the Mayor's opinion of Council rules, on whether an item has to be posted on the agenda in order to be acted upon.

Mayor Myers said his interpretation was that the rules had to be suspended in order to act on it.

Councilor Callaghan said the Mayor was pushing it to six votes and he felt that wasn't required.

Mayor Myers asked the City Attorney if he felt it was his place to comment on Council Rules and Robert's Rule, and if so, if he would like to do so.

City Attorney Krans said the best approach was to research it, and he'll come back to the Council with an answer.

Councilor Callaghan asked for confirmation that the City Attorney will do this.

Mayor Myers asked for a vote that it was the will of the Council that the City Attorney research this issue.

Vote: 7/2; Passed. Councilors DeDe and McCusker were opposed.



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, June 10, 2009**  
Meeting Time: **7:00pm**

Councilor Callaghan said he went to the Dover Mounted Police open house, and said it was a terrific event. He also asked if there could be discussion on items that are going to be referred to a new date.

Mayor Myers said it could be discussed during Council Matters of Interest.

City Manager Joyal said he would research it to be sure, but felt it could be discussed during Council Matters of Interest.

Councilor Callaghan referred to 12.B.1., he would like to see a column for fiscal year 2010 and what effect this has on the budget that was passed.

Mayor Myers said the final three sentences of the background information answers your question: "This Resolution will have no impact on either fiscal year 2009 or 2010 tax levies. This Resolution is not a budget amendment for C-66, because there is no appropriation being made that results in an increase in the fiscal year 2009 budget."

Councilor Callaghan said he saw that. He said he sees Tolend Road being moved to fiscal year 2011, and asked how that affected what was in Tolend Road for fiscal year 2010.

Mayor Myers said the proposal was to move the \$400,000 to General Street Funds, as opposed to using it for the first year on a specific street project.

Council Callaghan asked if the CIP needed to be amended to show the \$400,000 for the first year for Tolend Road in fiscal year 2011.

Mayor Myers said it would need to be amended, but reprogramming fiscal year 2010 does not require that at this time. He said for planning purposes he would recommend the Council amend the out-years for the CIP.

Councilor Cheney discussed Items 12.B.1. and 12.B.2., and said they troubled her. She also discussed the motion to suspend the rules. She said she believes in a strong Chair, as the Mayor is, and he has to run the meetings a certain way. She said she didn't believe that it needed a supermajority or suspending the rules to bring up a motion to release a legal opinion. She said Robert's Rule is not law. She said RSA 91-A is a law, and it says: "We are publicly convened at intervals -- and notice will be given." She said in Council Rules it says: "in the form of an Agenda." She said that was the form the Council chose to give the public notice that the Council will convene. She said there are certain decisions the Council can make extemporaneously because the Council is convened, in a noticed meeting, and is still in session. She said RSA 91-A also mentions if the Council happens to meet somewhere else that it's not against the law. She said if the Council talks about City business, and it was disclosed at the next scheduled meeting, that it was obeying the spirit of the law. She also asked about the City website and the button mentioning "All City Councilors," and asked if Councilors from Ward 3 and 6 are on it.

City Manager Joyal said the Council passed a policy that all Councilors will be provided with an email account. He said whether or not they choose to do so is their decision.

Councilor Cheney said the website should have a disclaimer on it.

City Manager Joyal said the Council established a policy and the City is following it. He said he would be more than happy to accommodate the Council if they wanted to change it.

Councilor Scott referred to the last Council meeting and a motion that was made to eliminate revenue from some accounts, where he voted with the majority. He realized afterwards that eliminating some revenues would trigger a tax increase. He said he would like to reconsider his vote and vote no on that.

Mayor Myers asked Councilor Scott if he was just stating that for the record, or making a formal motion to reconsider that vote.



CITY OF DOVER

## CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Wednesday, June 10, 2009**  
Meeting Time: **7:00pm**

Councilor Scott said he was making a formal motion.

Mayor Myers said the item would have to be brought back forward, and a new vote taken. He said his understanding is that he can't just change his vote.

Councilor Scott asked how that could be done.

Mayor Myers asked Councilor Scott if he wanted to revisit the budget.

Councilor Scott said it was just on the vote for the reduction of revenues, because he felt it implies higher taxes.

Mayor Myers said that was an amendment to the budget, and in order to change your vote the budget would need to be brought forward again.

Councilor Scott asked if it could be done tonight.

Mayor Myers said he could do it. He said there would be a motion to rescind the budget vote that happened on June 3, 2009, and that would have to be seconded. He said there would be a motion to suspend the rules, and that would have to be seconded. He said it was not an item that was posted on the Agenda, and it would take six votes to suspend the rules. He said it would be rescinding the budget, and not rescinding just the vote on the amendment.

Councilor Scott said that sounds much too complicated, and he felt it would not pass. He just wanted to go on record saying that removing revenue from the budget would cause an increase in taxes, and he felt that was wrong.

Councilor DeDe referred to Items 12.B.1. and 12.B.2., and said the Mayor discussed this in detail at the beginning of the June 3<sup>rd</sup> meeting.

Councilor Callaghan said the website's "All Councilors" button is deceptive and should be fixed.

Councilor Cheney asked that the information that was passed out by Fire Chief Plummer be added to the record.

Councilor Weston referred to 12.B.1. and asked citizens to contact the Council to deliver their opinions.

### 14. ADJOURN

Councilor DeDe made a motion to adjourn; seconded by Councilor Callaghan.

Vote: 9/0.