



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, June 24, 2009**
Meeting Time: **7:00pm**

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

Councilor Callaghan led the Pledge of Allegiance.

3. ROLL CALL

Present: Mayor Myers, Deputy Mayor Trefethen, Councilors Callaghan, Carrier, Cheney, DeDe, Scott and Weston. Councilor McCusker arrived at 7:50 pm.

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

4. PROCLAMATIONS - None

5. APPROVAL OF AGENDA

Mayor Myers asked the Councilors if they would like to make any changes to the Agenda.

Councilor Scott asked to move 11.B.3. to right after the Mayor's Report; seconded by Councilor Cheney.

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

Councilor DeDe asked to add a committee report for the Appointments Committee; seconded by Councilor Callaghan.

Vote: 8/0.

Councilor DeDe made a motion to accept the Agenda as amended; seconded by Councilor Weston.

Vote: 8/0.

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.

Jan Nedelka, 169 Dover Point Road, Member of the Arena Commission: He said he was there to make a plea to the citizens of Dover. He was asking for volunteers to join him on the Arena Commission.

Harvey J. Lynch, 26B Lincoln Street: He wanted to address the problem at the McConnell Center with the Human Services and Community Action offices. He said they had a small waiting room without ventilation, and it felt like being in a closet. He said women and children are in there waiting to be helped. He said he didn't understand how the people coped.



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John Scruton, 99 Sixth Street, Member of the Transportation Advisory Commission: He said he was speaking for himself, even though he is on the Transportation Advisory Commission. He wanted to discuss traffic calming. He spoke of the speeding traffic on Lexington Street where said there are 20 young kids living. He said traffic calming has been on the books for 10 years. He said it was a design problem, and not an enforcement problem. He said speed can be designed on a street, with design standards down to 25 miles per hour or less. He listed other streets that have the same problem, because they were used to avoid traffic lights. He said it should be part of the cost of constructing the roads. He said he expects to pay for things the City needs, such as safety, roads, and schools. He expects to pay for putting a new roof on the McConnell Center.

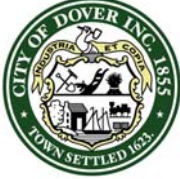
Mayor Myers, seeing no one else wishing to speak, closed the Citizen's Forum. He thanked the citizens for their time.

7. PUBLIC HEARINGS

A. REPROGRAMMING OF UNEXPENDED BOND PROCEEDS – FISCAL YEAR 2010 TOLEND ROAD STREET IMPROVEMENTS CIP PROJECT TO GENERAL STREETS IMPROVEMENTS CIP PROJECT SPONSORED BY MAYOR MYERS

Donald Medbery, 3 Covered Bridge Lane: He said pavement for Tolend Road must be carried out as planned in 2010 CIP. He said there should be no more reprogramming for this project, which has been needed for over 30 years. He said he was talking about safety and lives. He said other favored streets in Dover have been paved at a time when it was questionable. He said it was now time to fix Tolend Road. He said the City's largest employer has over 200 employees who travel this road twice a day, and they're putting their lives at risk. He said he doesn't know of an instance where a Johnson Controls Energy Efficiency Project saved any lives, or saved repair costs on vehicles. He said he has notified the State of New Hampshire Commission of Public Safety in writing requesting an investigation into the safety of Tolend Road. He read the letter to the Council.

Suzanne Medbery, 3 Covered Bridge Lane: She said she called as many people as she could over the weekend after reading the Agenda on Friday. She said she couldn't get in touch with people because of graduations, birthdays, and other things. She said everything else took precedence. She said these funds were earmarked for Tolend Road for this year and next year. She said the residents and commuters were eagerly awaiting the work. She said the residents of the North End of Town have been promised this for years. She said with the exception of Councilor Weston, most of the Council did not know the reality of the conditions of Tolend Road. She spoke to the City Manager and said he only travelled to Watson Road, and asked him to travel further down the road. She said it was so bad that the only way to drive down the road is to drive carefully down the middle of the road. She said every trip was a challenge, because you never know what's coming around the corner or up the hill. She said it was very dangerous, because of the holes, frost heaves, and irregularly repaired pavement. She said there are orange cones in the middle of the road by the egg farm, which is not far from Watson Road.



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She said this past winter was so bad that the holes opened up like volcanoes. She said it was an annual event to have a front-end alignment and shock absorbers and springs replaced. She said if the Council was planning to use the money slated for this project for the Johnson Controls project, which is expecting a positive return in seven years, then what would happen if the return was negative. She said the positive benefit of a proper repair and resurfacing of Tolend Road reaps an immediate benefit in terms of the safety of the residents and users of Tolend Road, not to mention the quality of life. She said she attended the EPA meeting regarding Mast Road in April, 2009, and Deputy Mayor Trefethen also attended. She said the engineers talked excitedly about the new recommended decision (ROD) that would cut millions of dollars from the cleanup of the Superfund Site on Tolend Road. She said she hoped the taxpayers get to see the benefit with no more orange water, bacteria filled trench, or tubes sticking out of the ground. She said they planned to lay a sewer line and run the pipes to the treatment plant, but it was to be done at the same time as the road reconstruction. She wondered if the State was in the same timeframe as the City. She asked when the Council was reprogramming Tolend Road to be completed, 2013, 2014, or 2015. She asked when the sewer was going to be done. She asked when the road was going to be done. She asked how the citizens can believe anything the Council says they are going to do. She said her taxes are as high as any in the City, and she could prove it. She said they get very little, and ask for very little in City services. She said they do have City water, but that was because the Federal Government demanded that, because the land is so contaminated that the citizens are not allowed to have their own wells. She said she expected the Ward Councilor and Councilors-at-Large to make this happen, because the next accident, injury, or death is on them.

David Montenegro, 55 Union Street: He said the dramatic comments of the Medberys were not an exaggeration. He said the road was seriously in need of repair. He encouraged the Council to use the funds that were appropriated for Tolend Road. He said the poor condition of the road does create a legal liability for the City, because the City is well aware of the hazardous condition of the road.

Antonio Bastianelli, 14 Tolend Road Extension (Atina Way): He said Tolend Road Extension is a short dead end road off of Tolend Road, and requested that it be included in the reconstruction project with Tolend Road.

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

8. CITY MANAGER'S REPORT

City Manager Joyal said his report addresses two different topics. First, the activities of the City Attorney in the past month. Second, an update provided by the Economic Development Director concerning Economic Development activity that he has been made aware of, or has conducted outreach for the past month. He said he has invited Dan Barufaldi to speak to the Council at the second regular City Council meeting, as part of his City Manager's Report, to present his observations and activities. He said he expected to do this at the beginning of each quarter, which was part of the arrangement with DBIDA. He spoke of the activities taking place on July 4th. He said they will be family oriented events during the day at Henry Law Park.



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Councilor DeDe referred to the Economic Development Director's report, and asked about the progress of the Enterprise Resource Zone (ERZ) application, where it apparently has been submitted to the New Hampshire Department of Resources and Economic Development (DRED), where George Bald was.

City Manager Joyal said George Bald was the Commissioner for DRED.

Councilor DeDe asked for an overview of the progress for the ERZ districts.

City Manager Joyal said following the Council's approval of the ERZ application it was submitted the next day. He said ERZ is a program that is provided by the State of New Hampshire to offer economic incentive to businesses to either expand or create jobs in certain areas of the community that would qualify, which are areas of blight or low income properties and certain types of businesses that will create jobs or positions. He said there are three specific areas in the City; Downtown, Route 9, and he couldn't remember the third area. He said the businesses in those areas were contacted and informed that this program was available to them. He said it involves the business committing to making an investment in their company to expand and offer positions, and they can take a credit off of their State taxes. He said the Economic Development Director, Dan Barufaldi, did hold an information session for the businesses that did respond to the mailing, and twelve businesses attended and received the information. He said he felt that some businesses will follow up and be able to take advantage of the program. He said it was a good session where the businesses also shared information back and forth. He said the ERZ program has been approved and is in place. He said this was an important tool in the City's economic development.

Councilor DeDe asked if that tool will still be available if the Business Enterprise Tax Exemption is eliminated by the State Legislature in this current session.

City Manager Joyal said it was his understanding the changes that were adopted by the State Senate earlier today did not affect this program, and businesses will still be able to apply for this and receive a credit against their enterprise tax. He said he had heard from the media, and expects more information from the State that the Senate did adopt the State budget, which had been widely publicized in the media about some of the changes, both with taxes and downshifting of costs to the local taxpayers. He said immediately following that the House followed suit and adopted the budget. He said it is now in the hands of Governor Lynch, where there has been no indication that the Governor will veto the budget, because it doesn't have any of the objectionable materials, such as gambling or gas tax. He said he assumed the budget will be signed before July 1st. He said as a result of that, the City will be losing approximately \$600,000 in block grant revenue sharing that is currently anticipated in the budget, in addition to a recalculation of the employer contribution rates to the retirement system, which will have an added impact of \$200,000 to \$300,000. He said this is an expense that will have to be addressed within the City's budget that was adopted.

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

Vote: 8/0.



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9. MINUTES

- A. June 3, 2009 – Workshop
- B. June 3, 2009 – Special Meeting
- C. June 10, 2009 – Regular Meeting

Deputy Mayor Trefethen made a motion to accept the Minutes; seconded by Councilor DeDe.
Vote: 8/0.

10. MAYOR'S REPORT

Mayor Myers apologized for not making it to the Appointments Committee meeting at 6:00 pm, and to the people that came to be interviewed. He was stuck in rush hour traffic on Route 128 in Massachusetts, which made a usually short trip much longer. He said he had a few busy weeks. He attended the After Hours Chamber of Commerce meeting for the month of June, which had a nice turnout. He said the Chamber of Commerce will be having their grand opening for their new office and visitor center on Friday, June 26th. He said he attended the graduation at the Dover Adult Learning Center, where several graduates received their high school diplomas or GEDs. He said he attended the Dover High School graduation on Thursday, June 18th, at the Lundholm Gymnasium at UNH, in Durham. He said he presented greetings and remarks to the graduates, and was able to give his son his diploma. He attended the Arts Alive event at Henry Law Park on Saturday. He said on the morning of July 4th they will be doing the annual event of reenacting the reading of the Declaration of Independence on the City Hall steps. He said Thomas Jefferson, Benjamin Franklin, and John Adams come in full costume.

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

Vote: 8/0.

11. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2ND READING – None

B. RESOLUTIONS

1. RESOLUTION: SUPPLEMENTAL GENERAL FUND CIP APPROPRIATION FOR ENERGY EFFICIENCY PROJECTS AND AUTHORIZATION FOR BONDING SPONSORED BY COUNCILOR WESTON

Councilor Weston moved for its adoption; seconded by Councilor DeDe.

Councilor Weston said after much investigating and research, that this contract is sound and the City is protected in the three avenues with the bonds. She said she believes, as well as the City Manager and City Attorney, that the loopholes have now been fixed.

She said there was a question of giving up \$1.8 million in investment in this project, but said that the City will be giving up those dollars for investment if the City does not go through with this. She felt the projections show that the City will save money. She said



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the argument was that the citizens will not realize the savings, but that the City Manager will get to spend those dollars. She said it was the City Council that would spend the money, and not the City Manager. She said a return in 6.8 years on the investment is very reasonable. She said the whole City will see the results. She asked for the Council's support on this Resolution and that it be passed.

Councilor Cheney said it was a big investment, a big investment in growing the City government even bigger. She said Councilor Scott made a reasonable request to move the Tolend Road issue first, before this Resolution, because that issue is much older than this issue, but Councilors didn't agree to that this evening. She wanted to know why. She said that was a safety issue. She said safety, infrastructure, and education were the reason that the Council was there. She said the CIP is going to grow. She said since Tolend Road is second on the Agenda, and because of the Council's inability to act on behalf of its citizens, it will be Tolend Road that's blamed for growing the CIP. She said there were other ways the City could have done this energy contract, but with all the research that was done the Council will just put it right on the City's general obligation debt and grow the CIP. She said it was not Tolend Road's fault, because it has been on the agenda a lot longer than this Resolution. She said the City has already done an energy contract, and felt it should have been furloughed, waited for, or found another way to get the money. She said even if the City did fund balance to pay for it, it would have saved \$400,000 alone in interest. She said 35% of the contract is the Arena upgrade. She said on June 3rd when the Mayor first brought this up, that these two items deserved a workshop so the Council could talk freely and openly, the body that represents the people. She said she had a problem with the Agenda not being changed. She said she had a bigger agenda with the Council spending taxpayer money and growing the CIP, because that is going to make the base bigger. She said she would not be supporting this Resolution.

Councilor DeDe said this was one of those areas where there is a lot of emotion. He said the financing charge was going to add about \$110,000. He said this investment was going to create major energy savings for the City. He said this doesn't have the same effect as other items on the CIP, where the City just pays the money back. He said this was an example where the investment saves the City money. He said the payback is now calculated at 6.8 years instead of 7.2 years, because of the stimulus funds that the City is receiving. He said the City will enjoy the savings created by this contract way beyond 10 years. He said it was asked what would happen if the savings don't occur, and said Johnson Controls has an obligation to make up that difference to the City of Dover's taxpayers. He said Councilor Weston found a loophole in the contract that would not have helped the City if for some reason Johnson Controls had gone belly-up. He said a surety bond was added to the contract, so that even if the provider of this guarantee were to reach unforeseen circumstances, the surety bond insures the taxpayers. He said there have been other suggestions, among which is that the City of Dover can just do it themselves. He said the City does have excellent and dedicated employees, and they work hard at what they do. He said the reality is that they don't have the expertise and specialized training that Johnson Controls employees have. He said these individuals will run into glitches in the installation process, and because of their experience they probably have seen it before, whereas the City's



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employees are not practiced in this application. He said the City's employees are busy right now, so then the question is if the City could add qualified staff to do this. He said the City would be better off having it done by Johnson Controls. He applauded Councilor Weston for finding the glitch in the armor and is really encouraged that the Council finally has something in front of us that is supportable. He said in spite of the fact that this is a CIP item, that the payback will offset what is being spent.

Councilor Scott said there were many projects that the City would like to do and there is only a limited amount of money. He said this project does have potential savings, but to put it above a project that has been on the table for many, many years, the Tolend Road project, which is a safety issue, is wrong. He said Tolend Road should go first and this energy project afterwards. He said he couldn't support this Resolution at this time. He said that the Council now knows that the State is not going to provide the City with all of the money the City expected. He felt this Resolution should be postponed until the City knows where we stand, and it certainly should take second place to the Tolend Road Project.

Mayor Myers said the concern from some of the Councilors is that the residents won't see the savings from this project, and asked the City Manager how he will provide updates to the Council tied to the Johnson Controls findings and the guarantees. City Manager Joyal said there was an obligation that the City will realize a return on this investment and that it will pay itself back. He said there were additional securities added to the contract, because of questions that Councilor Weston raised. He said an important part of the contract with Johnson Controls is being able to show the savings, which is a component called M&V, measurement and verification. He said once a portion of this project is completed there are a series of events that take place. He said once the equipment is brought online there will be a testing period that will last anywhere from one week to three months. He said once the City is satisfied that the equipment is working, and Johnson Controls is satisfied that the equipment is working to their obligations under the contract, then it is considered commissioned and the clock will start running and Johnson Controls will have to present evidence to the City within a one year period that that piece of equipment resulted in an energy usage reduction. He said he intends to ask Johnson Controls to publicly present their findings, because of the interest and doubt surrounding this contract. He said he would verify their findings with the City's consultant. He said the project will be successful whether or not energy savings are realized, because the City has the new equipment and new facilities that we would otherwise not have, and it is guaranteed to pay for itself. He said if it doesn't pay for itself, a third party will make up the difference. He said the money that is saved is money that will not appear in the budget. He said if the energy was not saved, it will appear in the budget. He said if this energy contract is approved, then he expects to present budgets to the Council that don't have as large an increase, assuming energy prices are going to increase. He said the savings are in the avoided increase. He said the City is not going to get a rebate check that will show the savings. He said the value of the amount of the avoided increased will be presented in measurement and verification report.

Mayor Myers said this Resolution had his support. He addressed comments from the Public Hearing and some of the Councilors. He said the Johnson Controls project is



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completely separate from the Tolend Road issue of reprogramming funding. He said one is not bumping the other for dollars, or taking precedence. He said the reason the Agenda is in the order it is is because the Energy Efficiency Project has been on the Agenda longer at this point, since May, and is the most senior piece of Unfinished Business. He said the other two pieces of unfinished business first appeared on the Agenda on June 10th.

Councilor Callaghan said he still believes in everything he said in the past regarding this Resolution. He said he didn't believe this was in the best interest of the citizens of Dover. He said he may be proven wrong, but he felt there were some speculative objectives that provide the data, which can be manipulated in favorable ways in either direction. He said he isn't wrong that it raises taxes today, and he isn't wrong that this money should be spent elsewhere. He said this is one of those want to have, and not have to have. He said the City isn't going to fall apart without this. He said he can't support this Resolution.

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

2. FISCAL YEAR 2009 TRANSFER OF APPROPRIATION – GENERAL STREETS CAPITAL OUTLAY – GENERAL FUND OPERATING BUDGET SPONSORED BY MAYOR MYERS

Deputy Mayor Trefethen moved for its adoption; seconded by Councilor Weston. Mayor Myers said this was originally brought to the Council on June 3rd, and he asked to have a second reading on June 10th, so the public would have plenty of opportunity to look at this Resolution and the next Resolution. He said these Resolutions were looking ahead. He said some of the things came true today in Concord. He said the Council is working on a budget that already contains \$330,000 less in operating dollars for general street repairs than what the Council had hoped to put into it. He said the City took a \$600,000 hit today with the State's passage of their budget. He said the Council is going to have to look at the Budget they just passed and figure out what needs to be done. He said they didn't factor in the retirement share from the State going from 35% to 30%, passing the burden down to the local level. He said it's supposed to go from 30% to 25% next year, and the rates will be adjusted on a bi-annual basis. He said he was trying to capture unused funds for Fiscal Year 2009 before it went into fund balance, and try to use it to fund general street repairs, which is the number one priority that he hears from the people. He said it will not impact the tax rate or taxpayers. He said this will take a five person vote.

Deputy Mayor Trefethen said he will be supporting this Resolution. He said he is sure the whole Council has heard from constituents that streets need repair, and they are told their street is on the list. He said the list will get shorter if the Council doesn't do something to get that money into this account. He said it is not just Downtown, but all over the City. He said he has Tanglewood Drive and Berkshire Lane on the list in Ward 4, for cut and patch as needed.

Councilor DeDe said when the Mayor introduced this to the Council it showed him that the Mayor's experience has once again helped the City Council and the taxpayers. He said this was money that was budgeted to be spent in this current year, but remained



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unspent. He said with all the things that happened to this City in the past year, it was really a testimonial to the City Manager's expertise in managing things. He said it appears to be safe to earmark \$200,000 of unspent funds into general street repairs. He said it wasn't new money that the Council will be sending the taxpayers a bill for. He said it deserves a 100% support of this Council.

Councilor Callaghan said he wouldn't be supporting this Resolution. He said he couldn't see spending money at this point. He said he felt the Council needed to wait and see where the City stands in a few months. He said he sees the Council having to override the spending cap. He didn't agree with emptying the piggybank, when the City may be starving for cash.

Councilor Weston said she looks at this from a different angle. She said the Council sat here on June 3rd and spent \$189,000 in savings to put some things back into the budget. She was hoping to use the \$200,000 and roll it into the fiscal year 2010 budget to offset any spending. She said she feels even more strongly now that the City is losing funding from the State. She hoped this Resolution failed so she could come back with a new Resolution to take all the excess money and have it offset spending for fiscal year 2010 that was just passed.

Councilor Cheney said when she was campaigning and during the Ward 1 debate all she heard about was roads. She said she is now hearing slow down, don't spend any more money. She said she wouldn't be supporting this Resolution.

Councilor Scott said if the City Manager had found ways to save money, and the City has \$300,000 or \$400,000 that has not been spent, that's fine. He said he felt the City should build up their rainy day fund. He said the Council already knows they have \$43 million of unfunded liabilities for healthcare for retirees, and the City hasn't even started to put money aside for that. He said he wouldn't support this Resolution.

Councilor Carrier said it's always nice to have extra money, a nest egg, in case of an emergency. He said roads have always been an issue. He said he is afraid of what the City doesn't do today that will cost double tomorrow. He spoke of the liability to the City from people getting hurt. He said he would like to see \$200,000 set aside and kept for a rainy day, but he also believed the money should be put into the road system. He said he would support this Resolution.

Councilor McCusker said the City is in a mess with its entire infrastructure. He said both water and sewer lines throughout the entire City continued to be patched. He said the longer the Council postpones this issue, the worse the situation gets, and the more expensive it gets. He said he would support this Resolution, because it was better than not doing anything.

Councilor Weston said she has seen three roads in the last week that have been paved, and though she isn't an expert, she didn't see why two of the three were paved. She asked why the Council spent the \$189,000 on some of the activities funds and did not put it into the roads. She felt it was a mistake to take the extra money and just put it into roads. She felt it should be applied to next year's spending. She said the Council should ask the Community Services Director to take a close look at the roads and only do the ones that are on the brink of being beyond repair, and push the other roads off.

Councilor DeDe said regarding applying the whole amount to next year, the reality is that the City Manager isn't going to have a full picture of exactly how much is left over, so it's



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not possible at this point. He said it is possible to look and see that approximately \$330,000 will be left over now. He said this Resolution does exactly what the Councilor wanted, it offsets money spent in fiscal year 2010. He said this was simply an efficient level of management and it is not going to impact the taxpayers. He said it will have his support and he thanked the Mayor for thinking of it.

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

3. REPROGRAMMING OF UNEXPENDED BOND PROCEEDS – FISCAL YEAR 2010 TOLEND ROAD STREET IMPROVEMENTS CIP PROJECT TO GENERAL STREETS IMPROVEMENTS CIP PROJECT SPONSORED BY MAYOR MYERS

Deputy Mayor Trefethen moved for its approval; seconded by Councilor DeDe. Mayor Myers said this Resolution will take a 2/3 majority vote to approve. He thanked the Medberys for speaking to the Council. He did want to make a correction in the letter. He said the City Manager had nothing to do with this Resolution. He said the Medberys also mentioned that this just came on the Agenda this past Friday. He said it was also on the June 10th Agenda, and he also provided copies of this Resolution at the June 3rd Workshop. He said public notice on this Resolution was posted for the first time on June 5th, and it was not something that was brought up a few days ago and the public was blindsided by it. He said this has nothing to do with Johnson Controls and taking any funds from the Tolend Road project. He said any five Councilors can request any workshop topic, but one Councilor making a request does not make a consensus. He said this Resolution is not trying to pick on Tolend Road/Watson Street construction. He went over the projects slated for Fiscal Year 2010, which totaled \$5.6 million, and the amount being retired is \$3.9 million. He said if it is the Council's desire – it doesn't have to be -- to do what it did this year, and the City is only retiring \$3.7 million [sic], then that should be the ballpark of what the Council is issuing in new debt. He said he chose Tolend Road because it was the biggest expenditure over a three year project, but he knew Tolend Road really needs to be done. He said if the Council is not going to do some of these projects in the second phase, then the City shouldn't be spending the money on the first phase to do a study that is going to sit on a shelf and collect dust. He said the Council also had to look at future years in the CIP. He said it does nothing with the Tolend Landfill project with the EPA, the amended ROD decision, and the other PPRs to tie the sewer line in that area. He said it did not stop or change that in any shape or form. He said he felt the Council needed to make a decision before the City spends money on Year 1 on a project that is not going to be committed to in Year 2. Councilor Cheney said the Council did have a workshop on this, and it was called the CIP. She said the Council decided that this was an important project to do. She said it was decided that the energy contract wasn't going to be done in the CIP, but that Tolend Road was going to be done. She said she heard the comments on why things weren't moved on the Agenda, and she said this Council has moved things on the Agenda to benefit the people. She said this Item could have been moved, which is a safety issue, to the front and discussed first. She said she had confidence that this Council will



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support fixing Tolend Road, but now it is Tolend Road that will make the Council break their policy of not going into debt more than what is being retired, and not the energy contract as it should be. She said the energy contract was a new item. She said Tolend Road is a cow path that has been paved, has never been totally constructed, and very dangerous. She said there were other ways to do the energy contract, and there were other ways to do this Resolution. She said this Council is being directed and led into these types of decisions. She said she would not support this Resolution at all.

Deputy Mayor Trefethen said he would start with a few facts first. The correct timeline is that the first year would start July 1, 2009 for the design, the second year would start July 1, 2010 for the reconstruct, and the third year would start July 1, 2011. This is not related to the energy contract or the Tolend Landfill work. He gave kudos for trying to reposition this and make people think it is, but it is not. He said there are other roads that have been delayed on the CIP: Piscataqua Road and Mast Road/Spruce Lane. The CIP that the Council passed is a plan and not a commitment of dollars. He listed several streets that need reconstruction and said if they wanted to compare pothole to pothole they could, but the bottom line is they're terrible. He said he would be supporting this Resolution.

Councilor Callaghan said he would not be supporting this Resolution. He said he doesn't travel Tolend Road daily, but he does travel it frequently, and during the winter it is awful. He said he drives larger vehicles that shouldn't be affected by the condition of the road. He said he doesn't understand why there haven't been more accidents. He said in a sick way it could be called homemade traffic calming. He said the road needs to be fixed. He said the City Manager is going to have to be directed to find the money somewhere else in the budget to keep from increasing property taxes. He said the other thing that troubles him is that the Council keeps referring to the policy not to go beyond retired debt. He said the Council just did \$2.4 million above retired debt by approving the previous Resolution.

Councilor Scott referred to the \$5.6 million for fiscal year 2011, and asked if it shouldn't include the \$2.8 million for the energy contract that the Council just signed, making it \$7.4 million.

Mayor Myers said it happened tonight, so it will be on the 2010 CIP.

Councilor Scott said he was against moving Tolend Road. He said he has travelled the City, and Tolend Road is by far the worst road in the entire city. He spoke of the Whittier Street bridge and said it was desirable for the waterfront, but it wasn't a safety issue. He spoke of Pineview Drive and Pearson Drive in his Ward, and said they are short little roads that can wait. He said Tolend Road should stay in the CIP, and other things should be pulled out.

Mayor Myers said the Whittier Street bridge had nothing to do with the waterfront.

Councilor DeDe said this was an excellent strategy that was recommended by the Mayor. He said the \$2.5 million in the 2011 CIP and the \$2 million in 2012 add up to \$4.5 million. He said if the City goes ahead and does the engineering for \$400,000 in 2010 for Tolend Road, and then decides later that the rest can't happen – the Council's strategy might change, but he doesn't see that happening. He does see the Council having to make some tough decisions. He said he has heard some political posturing on this issue, but the reality is that it is just a dollar and cents issue. He said it doesn't



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make any sense to put \$400,000 out of the 2010 CIP if the City is not going to have what it takes to do the \$2.5 million in 2011 and \$2 million in 2012. He referred to the amounts and said they probably weren't accurate, because of the inflation in the price of asphalt. He said this is one of those areas where Councilors have to step forward and represent the correct thing to do.

Councilor Weston said she thought this idea might work when it was first presented, but after researching it and talking with the City Manager she remembered an important issue, the financial savings of coordinating the reconstruction with putting the sewer line in. She said she asked the City Manager how much of the sewer line will be along the street or under the street, and the City Manager's response was that it would run approximately from Willow Street to Glen Hill Road, which is about two miles. She said the total project is 4 miles. She asked if the sewer line was going to put on the horse farm side.

City Manager Joyal said that was correct, but it has to be on the opposite side of the water main.

Councilor Weston said the sewer line will have to be under the road, which means it will be dug up anyways for the two miles. She said DES is requiring that the City do the sewer project, and financially it makes sense to coordinate the two projects together. She spoke of the safety issues on the road and the fact that the road is flat and sinking. She said people's cars are bottoming out, causing broken axles and popped tires. She agreed with Councilor's Cheney comment that it was a cow path with pavement. She said Tolend Road was a main artery and was beyond repair. She said the City did shimming last year and it is already falling apart. She said she considers herself to be conservative, but she believes in Tolend Road and the energy contract. She believes one will save money and the other will save lives.

Mayor Myers said he can see where the votes are, and if this doesn't pass tonight then a Councilor needs to bring forth another resolution that the City is not going to do Applevale and Hawthorn, because the Council needs to cut money from next year's CIP, and we have to stop the City Manager and his staff from spending the \$200,000 this year. He said there was a comment that this would push the City over the spending cap, but it actually does the opposite. He said it would take the \$2.5 million in next year's CIP for Tolend Road out of the CIP, and replace it with \$400,000 that the Council has already appropriated in this year's CIP. He said it would also get \$400,000 more in general street repairs. He spoke about the CPI number being -.44% for five months out of twelve, and its affect on the tax cap for next year.

City Manager Joyal said he wanted to clarify something Councilor Weston said. He said the City will be constructing a sewer line for Tolend Road from Glen Hill Road to Willow Street. He said that should start later this year, with shovels hitting the ground in the Spring and it will take most, if not all, of the construction season. He said the road construction will probably be done a year later. He said the \$2.5 million in next year's CIP would be used to reconstruct the part of the road that is more toward in town, and not the worst part of the road, because of the timing.

Councilor DeDe asked the City Manager if the purpose of the sewer line was to avoid the requirement of having tank trucks go to the processing plant, resulting in savings for the City.



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City Manager Joyal said that was the initial purpose of the line to service that landfill, and it will be designed to provide sewer service for that area of the City.

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

12. NEW BUSINESS

A. CONSENT CALENDAR

1. **RAFFLE – Forever Young Club/Cochecho Park P.A.L.P.**
2. **RESOLUTION: B09070 CRACK SEALING SERVICES**
SPONSORED BY MAYOR MYERS BY REQUEST
3. **RESOLUTION: B09071 DOVER TRASH BAGS**
SPONSORED BY MAYOR MYERS BY REQUEST
4. **RESOLUTION: B09073 CATCH BASIN CLEANING SERVICES**
SPONSORED BY MAYOR MYERS BY REQUEST
5. **RESOLUTION: B09077 BITUMINOUS CONCRETE/ASPHALT TO BE PICKED UP**
SPONSORED BY MAYOR MYERS BY REQUEST
6. **RESOLUTION: B09081 CHEMICALS FOR RECREATION AND COMMUNITY SERVICES DEPARTMENTS**
SPONSORED BY MAYOR MYERS BY REQUEST
7. **RESOLUTION: B09095 SIDEWALK IMPROVEMENTS**
SPONSORED BY MAYOR MYERS BY REQUEST
8. **RESOLUTION: MISCELLANEOUS HARDWARE SUPPLIES**
SPONSORED BY MAYOR MYERS BY REQUEST
9. **RESOLUTION: MUNICIPAL LEGAL SERVICES**
SPONSORED BY MAYOR MYERS BY REQUEST
10. **RESOLUTION: PURCHASE OF ROOT CONTROL SERVICES**
SPONSORED BY MAYOR MYERS BY REQUEST
11. **RESOLUTION: CHANGE ORDER I FOR B09042 2008 INFILTRATION AND INFLOW REDUCTION CONSTRUCTION**
SPONSORED BY MAYOR MYERS BY REQUEST



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**12. RESOLUTION: AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH CASA AT THE MCCONNELL CENTER
 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 | |

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

Councilor Callaghan said he would like to pull Items 12.A.4., 12.A.7., and 12.A.11.

Councilor Cheney said she would like to pull Items 12.A.3., 12.A.5., and 12.A.6.

Councilor Scott said he would like to pull Items 12.A.9., and 12.A.12.

Mayor Myers said they have to substitute information for 12.A.8. Mayor Myers asked for a roll call vote on the remaining items of the Consent Calendar; 12.A.1., 12.A.2., and 12.A.10.

Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 12.A.3.; seconded by Councilor Cheney.

Councilor Cheney said she wanted clarification on the pricing of the trash bags. She referred to the prices for the large bags going down, and the small bags going up. She also asked about the resin.

City Manager Joyal went over the pricing of the bags. He said they were looking at a 2-year contract, and would allow an increase after a year that the Council would have to approve. He said this company said they would base their price on the price of the resin they use to produce the bags.

Councilor Cheney asked if it was a new vendor.

City Manager Joyal said it was a new vendor.

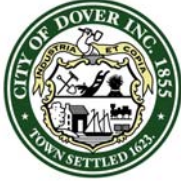
Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 12.A.4.; seconded by Councilor Callaghan.

Councilor Callaghan referred to his handout, a spreadsheet he created that showed several years. He asked why it varies so much from year to year.

City Manager Joyal said the City has budgeted \$25,000 for catch basin cleaning services in order to meet the requirements set by the EPA, which is to clean ¼ of the catch basins each year. He referred to the presentation given by Dean Peschel, and the more stringent storm water regulations, which basically doubles how many catch basins have to be cleaned per year.

Roll Call Vote: 8/1; Passed. Councilor Scott was opposed.



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Deputy Mayor Trefethen moved for the approval of 12.A.5.; seconded by Councilor Cheney. Councilor Cheney wanted some clarification on why it went up from the mid-\$50,000s to over \$100,000, and asked what portion went to bituminous concrete. City Manager Joyal said this was a product the City used for street repairs and cannot really be estimated, but in looking at past years he felt it would be somewhere around \$100,000. Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 12.A.6.; seconded by Councilor Cheney. Councilor Cheney again wanted some clarification on why it went from \$70,000 to \$111,000 in 2008 and 2009 respectively, and why it is now \$191,426. City Manager Joyal said the whole amount won't be spent on chemicals. He said other things are paid for out of that account, such as filters. Deputy Mayor Trefethen asked the City Clerk to amend the voting record on the Resolution. Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 12.A.7.; seconded by Councilor Callaghan. Councilor Callaghan said he felt it was just too much money at this point, when the City should be cutting back. He felt this should be cut back at least 25%, and the Council should have a workshop on which sidewalks to cut out this year. He said he won't support this Resolution unless there is an amendment to reduce the amount. He said he would make a motion to postpone this Resolution. Mayor Myers asked the City Manager what would happen if this Resolution wasn't passed tonight. City Manager Joyal said he didn't believe this would lapse. He asked Finance Director, Dan Lynch, if this was prior year funds. Mr. Lynch said it would not lapse, and it can be carried over into next year. Deputy Mayor Trefethen asked the City Manager if this could be delayed without suffering penalties, or if it was something that needed to be done. City Manager Joyal said if the Council approves this Resolution the price holds until June 30th, and he wasn't sure if they will retract their bid if it is not approved. The bid will expire on June 12th.

Council Cheney said it said 2010. Deputy Mayor Trefethen asked how it would affect the bid if the Council reduced the amount, and which sidewalks wouldn't get done. City Manager Joyal said he would have to go back and discuss it with the company. He said in all fairness, with the different quantity, that the City would probably put it back out to bid. He clarified that this was to repair existing sidewalks, and not new sidewalks. Councilor Callaghan made a motion to postpone this Resolution until the Council can see a complete list of the sidewalks that are being presented and a proposal from the City Manager to reduce this amount by 25%; seconded by Councilor Cheney. Vote: 4/5; Failed. Councilors Callaghan, Cheney, Scott and Weston voted in favor. Councilor Weston asked if Community Services Director, Doug Steele, could give the Council information on this.



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City Manager Joyal said the decision on what streets to be paved or what sidewalks to repair should not be done by the Council and should be left to the professionals.

Councilor Weston asked Mr. Steele what the affect would be if the Council cut this Resolution by 25%.

Mr. Steele said the two that are an absolute priority are Pierce Street, from Central Avenue to Broadway, and Arch Street, from Silver Street to Washington Street, which needs to get done before school starts. He said he would have to go back to his engineers to prioritize these projects if the Council wants to cut it back 25%. He said the current list of roads were there for a reason, and he felt they should be done. He said they were also pleased with the bid, because he had anticipated it to be much higher.

Mayor Myers asked Mr. Steele what percentage of the \$350,000 amount he would estimate made up Pierce Street and Arch Street.

Mr. Steele said he couldn't tell him that. He did know that Lexington Street, from Silver Street to Washington, was one of the big ones. He said he felt 25% would be that project.

Councilor Callaghan made a motion to reduce the amount by 25%.

Mayor Myers asked the City Manager if that would require a new bid.

City Manager Joyal said he suspected it will, but if that was what the Council wanted to do he would go back to the vendor. He said he would talk to the Purchasing Agent. He did say it might be acceptable.

Mayor Myers asked if there was a second to the motion.

Councilor Scott seconded the motion.

Councilor Cheney said she didn't want to pick and choose sidewalks, but she wanted to make sure the main core should be completed, because there may be handicapped people.

Vote: 5/4; Passed. Mayor Myers, Councilors Carrier, DeDe, and McCusker were opposed.

Mayor Myers asked for a roll call vote on the amended Resolution.

Roll Call Vote: 8/1. Mayor Myers was opposed.

Deputy Mayor Trefethen moved for the approval of Item 12.A.8.; seconded by Councilor DeDe. Mayor Myers said he asked for this item to be pulled because there is a change in the discount. He asked the City Manager to speak about the change for this.

City Manager Joyal said the Purchasing Agent had followed up with the vendor to see if they would extend the current terms for discounts off of current list prices, and a prompt payment discount. He said the Purchasing Agent wasn't informed of any change until after she created the current Resolution. He said she heard from the vendor that they wanted to change the prompt payment discount from 5% to 2%.

Mayor Myers said before they could move forward they would need a motion to amend the Resolution.

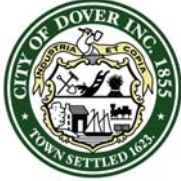
Deputy Mayor Trefethen made a motion to change the prompt payment discount from 5% to 2%; seconded by Councilor Callaghan.

Vote: 9/0.

Mayor Myers asked for a roll call vote on the amended Resolution.

Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 12.A.9.; seconded by Councilor Scott.



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Councilor Scott said he felt there has been an improvement in the spending for legal costs. He said he would like to see \$10,000 taken out of the legal department's budget and put into the control of the Council. He said the Council has had a number of issues that were constitutional, and he would like to have the ability to hire someone.

City Manager Joyal said that would require a budget amendment, which would require a public hearing and then a 2/3 vote to make that budget change. It wouldn't be able to be done tonight. Councilor Cheney asked the City Manager what was appropriated for in 2008, and what has been so far in 2009.

City Manager Joyal said the City Attorney could answer that.

Mayor Myers said the 2009 amount would be in the City Manager's Report, which is \$96,883.78, excluding the environmental.

City Attorney Krans said in 2008 it was \$90,000, but it did not include the expense for the bond counsel, which is usually \$30,000 to \$35,000. He said the 2009 figure of \$97,000 does include the bond counsel.

Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 12.A.11.; seconded by Councilor Callaghan.

Councilor Callaghan said he pulled this Resolution because he didn't believe it belonged on the Consent Calendar. He said Council Rules say it goes on the Consent Calendar when the Resolution is of a routine nature, and he hoped when the City is exceeding the original plan costs was considered a routine thing.

Councilor Scott said he agreed with that concept.

Deputy Mayor Trefethen said he has served three terms and the Council Rules were to allow these kind of things to the Consent Calendar. He said the reason given by that Council was to speed up the Agenda. He said the Council knows the process on how to change the rules, but he didn't see the point with five months left to the term.

Councilor Cheney said she just wanted to point out that she was on the Council at that time and she agreed with the procedure to move more things onto the Consent Calendar, but this Resolution isn't routine and has to do with the bid. She said she was glad it was pulled just to have this discussion.

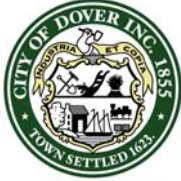
Mayor Myers said that was why it was on the Consent Calendar, because it only takes one Councilor to pull it off the Consent Calendar for further discussion.

Councilor Scott said at the State level the Governor cannot spend more than \$5,000 without bringing it before the Executive Council. He felt that \$25,000 was more appropriate for the City, and should not be on the Consent Calendar. He said it was something that they might want to change in the future.

Councilor Callaghan read the Council Rules regarding the Consent Calendar: "Any resolution placed on any meeting agenda for action by the City Council may, if within the judgment of the Mayor, Deputy Mayor, and City Manager, the item is of a routine nature be placed on the consent calendar." He didn't feel cost overruns on a major project are of a routine nature.

Roll Call Vote: 9/0.

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



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Councilor Scott said he was glad more space has been leased, but the price is on the low side. He pulled this Resolution because the cost of utilities is almost the same as the rent, and he felt that was unusual.

City Manager Joyal said the utilities include the cost of the common areas in the building, as well as the office space.

Councilor Scott asked if that was the same rate for everyone.

City Manager Joyal said the standard rate is \$13.07.

Councilor Scott said he thought that was high.

Mayor Myers said it also included custodial, snow and trash removal.

City Manager Joyal said this was detailed in the budget that was adopted.

Councilor Scott asked if the tenants realize that it includes debt service, because that is very unusual.

City Manager Joyal said when the McConnell Center was put together it was determined that the lease agreements would include two components: a fixed amount based on the debt service costs, which is \$6.50 per square foot; upgrades, which is \$.40 per square foot; and then there would be a variable cost of \$6.17 per square foot. He said the variable cost will change as the operating expenses for the building change.

Councilor Weston asked what CASA stood for.

City Manager Joyal said it stood for Court Appointed Special Advocate for Children, assisting children in legal matters.

Councilor Weston asked where Room 303 is in the McConnell Center.

City Manager Joyal said it was directly below Dr. O'Connor's office, and was one of the rooms that was originally going to be part of the cable studio.

Councilor Callaghan said he exchanged emails with the City Attorney about the security deposit.

City Attorney Krans said they will be removing it.

Councilor Callaghan asked if it would be appropriate to make a motion to delete that paragraph.

City Attorney Krans said he could do that.

Councilor Callaghan made a motion to delete Paragraph 20 and change the numbers to reflect that change; seconded by Councilor Cheney.

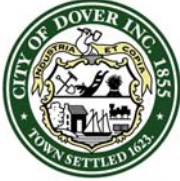
Vote: 8/1; Passed. Deputy Mayor Trefethen was opposed.

Mayor Myers asked for a roll call vote on the amended Resolution.

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

Councilor DeDe gave his report for the Appointments Committee. He said they met at 6:00 pm, before the City Council meeting. He listed the following recommendations for appointment:

- Bob Walker Arts Commission
- Barbara Lehocky Open Lands Committee
- Dennis Munson Arena Commission
- Charles Reynolds Parking Committee



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He listed the following recommendations for reappointment:

- Dennis Munson Transportation Advisory Commission
- Otis Perry Cemetery Board (moving from alternate to regular member)
 Zoning Board of Adjustment (alternate)
- Donald Andolina Planning Board
- Owen McKenney Recreation Advisory Board
- Marvin Brown McConnell Center Advisory Board

Councilor Callaghan said they didn't recommend Mark Hyson to the Recreation Advisory Board or Robert Marggraf to the Cemetery Board because they didn't meet with them. He asked if they could reappoint them, or if the Appointments Committee had to meet again.

Mayor Myers said the Council was in session, and he didn't want to muddy the waters.

City Attorney Krans said a Councilor could make a motion to appoint someone.

Mayor Myers said that was correct.

City Attorney Krans asked about Charles Reynold's position on the Ethics Commission.

Mayor Myers said he spoke with Charles Reynolds and he had indicated that once he was appointed to the Parking Committee that he would resign from the Ethics Commission, but he wanted to wait to make sure he was appointed to the Parking Committee.

Councilor Carrier vouched for Mark Hyson. He said he has done a fine job on the Recreation Advisory Board. He made a motion to amend the Appointment Committee's recommendations to include a reappointment of Mark Hyson on the Recreation Advisory Board; seconded by Councilor DeDe.

Vote: 9/0.

Deputy Mayor Trefethen made a motion to amend the Appointment Committee's recommendations to include a reappointment of Robert Marggraf on the Cemetery Board; seconded by Councilor McCusker.

Vote: 9/0.

Mayor Myers asked for a vote on the recommendations of the Appointments Committee, including the two additions.

Vote: 9/0.

B. RESOLUTIONS – None

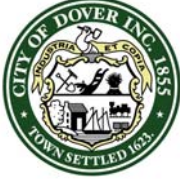
C. ORDINANCES IN 1ST READING – None

D. COUNCIL CORRESPONDENCE – None

13. COUNCIL MATTERS OF INTEREST

Councilor Carrier said on Saturday, July 11th, 9:00 am to 11:00 am, there will be a meeting at Park Street Park in Ward 1, to talk about fixing it up. He said if it rains he hopes to meet at St. Charles Church.

Deputy Mayor Trefethen spoke about the Agenda setting. He said when the Mayor and he see the Agenda it is without background materials, and they can't always tell what is a major item. He



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spoke about the lease for CASA and how he voted against it because he felt it shouldn't have been amended. He said the intent of the Resolution was to authorize the City Manager to enter into a lease agreement with CASA, and not to set the terms of the lease. He felt the City Manager did that with the help of the City Attorney, and he did not feel comfortable with striking out that provision. He spoke about a Councilor's comment that the Council should get along and work together. He agreed with some of the comments that the Council has some tough decisions to make in the future, and he felt the Council needed to stop looking at individual resolutions, individual efforts, and start looking at the big picture. He said he felt that Resolution was looking at the big picture.

14. ADJOURN

Councilor DeDe made a motion to adjourn; seconded by Councilor Callaghan.
Vote: 8/1; Passed. Councilor Weston was opposed.