

**MINUTES
DOVER CITY COUNCIL
CITY COUNCIL CHAMBERS
REGULAR COUNCIL MEETING
FEBRUARY 11, 2004
7:00 P.M.**

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Councilors Present: Keays, Mayberry, Myers, Perry, Reese, Trefethen, DeDe and Hindle. Councilors Absent: Colwell-Ellis.

Asst. City Manager Mike Joyal was in attendance representing City Manager Beecher who was absent.

4. PROCLAMATIONS/AWARDS

5. CITIZEN'S FORUM

Mayor Myers opened the Citizens Forum but first explained that there are public hearings for specific items following the citizen's forum and asked that comments for those items be made at the appropriate time.

Rick Hebbard, 97 Spruce Lane, stated he is here to speak regarding the proposed fire fee ordinance. He asked the Councilors to look around and notice what each other is wearing as well as themselves and to realize that it could be all they have left if they are the victims of a devastating fire as he was as a child. He said don't be surprised when the City receives a bill for that fire.

Sam Allen, 46 Watson Road, regarding the previous speaker stated that the issue needs to be kept separated from emotion. He feels that it is discouraging to see people crucified when they propose different ideas and doesn't think that the department heads should be hung in effigy. Next, he discussed the resolution regarding the upcoming 150th anniversary of the incorporation of the City of Dover in 2005. He stated that Nashua and Keene have both recently held year long celebrations and events which involved the entire community. Dover is the 7th oldest community in the United States being settled in 1623 and incorporated in 1855 and a celebration of the 150th anniversary could help make Dover a destination point. He stated that the planning needs to begin now and that leadership from the City is essential to make it a successful event. He asked that the resolution establishing a committee be passed tonight.

Norm Champagne, 13 Church Street – welcomed the new members of the Council as well as the returning members. He stated that the previous Councils have always said they were trying to play catch up with different projects and that as a result his taxes have increased \$5,000 over the past 5 years. He stated it is time to stop. The rents on his apartments have had to be raised to the point where people can't afford them. Next, he discussed the fire department fees stating that even if insurance companies did pick up the fees, it is only going to cause the insurance rates to increase. He stated that the City employees insurance is paid for by the taxpayers and he has to pay \$1,400 monthly for his medical insurance and feels that the employees should be paying more for their own. He stated that the Fire and Police Chiefs' ideas of cost savings is to take it out of the other pocket by raising fees because it isn't raising taxes but feels that is the wrong way to do things. Regarding the bridge across the river that the City is trying to get the State to pay for, he feels that perhaps we could make it a toll bridge and have the firefighters be the toll collectors when they aren't saving lives. He explained that he is being facetious, but feels it makes as much sense as the proposed ordinance does. He has heard that if the ordinance were to pass, people may decide not to call the fire department so they won't be charged. He concluded by stating that in the end it all comes out of the same checkbook.

Andy Galt, 48 Prospect Street – expressed his disapproval of the proposed fire ordinance in a prepared statement. He agrees with user fees that the user has control of such as garbage bags, but this fee is aimed at people when they are most vulnerable. Government should not seek to gain from its citizens misfortunes but should be responsible for providing fundamental life saving services. He concluded by stating this ordinance should not be amended or tabled but voted down.

Mary Hebbard, 97 Spruce Lane – stated that in 2 weeks Health/Plumbing Inspector Henry Baker will be stepping down after 7 years and thanked him for his service. She explained that Henry was originally hired to be the plumbing inspector but at the time he was hired, the health inspector was leaving so the 2 positions were combined. However, she feels that these two positions should once again be separated due to the fact that Henry was unable to fulfill all of the required inspections of the over 150 restaurants in the city with some establishments never being inspected. The building in the City has been tremendous over these past years requiring Henry to concentrate mainly on plumbing inspections and feels that the citizens deserve and should demand that these 2 positions be separate.

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

6. PUBLIC HEARINGS

- A. Setting of the Property Tax Exemption Levels and Criteria for Elderly, Blind, Disabled and Deaf for Fiscal Year 2005. Sponsored by Mayor Pro Tem Jason Hindle and Councilor Matt Mayberry.

The Mayor opened the public hearing asking if anyone wished to speak:

Roland Hofemann, 18 Wellington Avenue, representing the Dover Area Senior Citizens and Dover Area AARP discussed the resolution stating that 3 years ago he brought this before the Council and part of its passage was to periodically update the requirements. He thanked Councilor Mayberry and Mayor Pro Tem Hindle for following up on it and stated that this will only cost .10 cent per thousand of the tax rate, but will surely help save some homes and urged passage. He quoted Councilor DeDe stating that "This is the right thing to do".

Norm Champagne, 13 Church Street – stated that the Council is obligated to look out for the least fortunate among us and feels that it is the seniors who get hit the worst every year. He can complain about what goes on, but he can also go out and work to earn money to pay for the bills, but the sick and aged can't. He is in favor of this resolution and feels that the reward for getting old shouldn't be having to sell your home.

Robert Cloutier, 11 Shady Lane, stated this is a commendable thing to do, but doesn't know if it is based on income levels, age levels etc. He discussed Section 8 income requirements, small business retirement plans versus large company retirements and feels that this all needs to be taken into account as well as the federal adjusted income. He would like to see firm guidelines that will leave no room for exceptions.

Seeing no one else wishing to speak the Mayor closed the public hearing.

- B. Ordinance #01-01/14/2004, Chapter 131, Offenses, Section 131-17, Use of tobacco products in Henry Law Skate Park. Sponsored by Councilor Dean Trefethen.

The Mayor opened the public hearing asking if anyone wished to speak:

Caitlin Reilley, 122 Grove Street – is a freshman at St. Thomas Aquinas and initiated this ordinance because of the many age groups that congregate at the Skate Park. Some are old enough to smoke and do so in front of the younger kids and she feels that this may enable the younger kids easy access to tobacco products and at the very least it allows smokers to be role models for kids.

Dayne Deserres-Gauthier – freshman at St. Thomas Aquinas, is in support of the ordinance as well and feels that having the cigarette butts all over the ground creates a danger for the skaters and feels that many parents won't allow their children to go there due to the cigarette smoking.

Norm Champagne, 13 Church Street – stated that these kids have hit the nail on the head with this ordinance but feels that this should be extended to all city parks, the arena, outdoor pool etc.

Seeing no one else wishing to speak the Mayor closed the public hearing.

- C. Ordinance #02-01/14/2004, Chapter 109, Fire Prevention and Life Safety, Section 109-29A- Reimbursement Costs Pursuant to RSA 153:A:24, Driving While Intoxicated Accidents and other Criminal Acts. Sponsored by Mayor Scott Myers, by Request.

The Mayor opened the public hearing asking if anyone wished to speak:

Richard Hughes, 51 New Rochester Road – read a prepared statement against this ordinance. He stated that he doesn't recall any directive from the Council to the department heads, but if they did, it was a charter violation. He feels that this ordinance was rushed through the process as it was only advertised for a public hearing 8 days ago. He went on to recite Section 3-10B of the City Code, Administrative Code, Fire Department duties which include saving life and property and should be provided as a basic service to the taxpayer. He stated there are services provided by the fire department free of charge such as unlocking cars, which he feels is a misuse of personnel. He continued with the idea that we will soon have a VISA emblem over the ambulance. He quoted the City Manager as saying "It's worth taking a look at", but feels this is not an endorsement and feels that the Fire Chief has been taking all the heat when it should be the City Manager. He stated that the City Manager has misrepresented the amount of overtime which he feels is 3 times more. He concluded by stating that the City Manager should be well-versed on budget questions but he isn't here tonight and asked the Council to defeat this ordinance tonight with no amendments.

Norm Champagne – 13 Church Street – agrees with Mr. Hughes and stated that the city should follow a simple guideline when looking for ways to save money or enhance revenue and that is to ask if it is simply going to come out of the residents other pocket, it shouldn't be done.

William Asbell, 4 Hall Street – agrees with the previous two speakers and feels that such a fee could be construed as taxation without representation. He cited the recent increase in passport fees as an example and feels that fee increases should always be handled through the regular budget/tax process.

Seeing no one else wishing to speak, the Mayor closed the public hearing.

- D. Ordinance #03-01/14/2004, Chapter 109, Fire Prevention and Life Safety, Section 109-33, Public Safety Amplification System Required in Large Facilities. Sponsored by Mayor Scott Myers, by Request.

The Mayor opened the public hearing asking if anyone wished to speak:

Parks Christenbury, 98 Cocheco Street – stated he is here to speak on this ordinance to ensure that it is not confused with the previous ordinance which has received much negative publicity. He went on to explain that this ordinance is meant to put the cost of the required communications upgrades to the owners that have buildings that are prohibitive to police/fire communications systems. He explained that this is already in place throughout many communities with life safety code ordinances and is not a great cost to the builder at \$2,000, but this takes it off of the taxpayer.

Seeing no one else wishing to speak, the Mayor closed the public hearing.

- E. Ordinance #04-01/14/2004, Chapter 3, Administrative Code, Section 3-59, Recreation Advisory Board, adding Council representative. Sponsored by Mayor Scott Myers.

The Mayor opened the public hearing asking if anyone wished to speak, seeing no one, he closed the public hearing.

7. MINUTES

- A. Special Meeting/Workshop – January 7, 2004
- B. Regular Meeting – January 14, 2004
- C. Special Meeting/Workshop – January 28, 2004

Hindle moved to accept the minutes and place on file, seconded by Mayberry.
Motion passed on an 8-0 vote.

8. REPORTS OF SPECIAL AND STANDING COMMITTEES

- A. Appointments Committee – Councilor Otis Perry

Perry stated that the Appointments committee met at 6:15 this evening. He encouraged people to come in to the Clerk's Office and fill out applications for the various vacancies on boards and commissions and explained that alternate positions are important because many times they will determine whether there is a quorum for a meeting and also alternates are usually those members who will fill regular vacancies as they arise. He stated that they intend to put forth information to the public to educate the public on what the various boards and commission roles and responsibilities are. He then made the following appointments which will be approved with the acceptance of this report:

- Reappoint Ron Cole to the Planning Board
- Reappoint Don Briand to the Arts Commission
- Reappoint Mike Myers to the Recreation Advisory Board
- Appoint Ron Huml to fill the regular position on the Arena Commission
- Appoint Gary Gilmore to regular position on Arena Commission
- John Sibik to fill regular position on Recreation Advisory Board
- Earle Goodwin to fill Trustee of the Trust Fund vacancy

- B. Arena Commission – Councilor Darlene Colwell—Ellis - NO REPORT
- C. Arts Commission – Councilor Matt Mayberry See written report
- D. Planning Board– Councilor Dean Trefethen – NO REPORT
- E. School Board Liaison – Councilor Doug DeDe – See written report
- F. Solid Waste Advisory Commission – Councilor Otis Perry – NO REPORT
- G. Transportation Advisory Commission – Councilor Jason Hindle – See written report
- H. COAST Bus – Council Jerry Reese – NO REPORT
- I. JBC – Councilor Jason Hindle – See written Report

Hindle moved to accept the reports and adopt the Appointment Committee appointments, seconded by Reese. Motion passed on an 8-0 vote.

9. MAYOR'S REPORT

Mayor Myers attended the HUB 10th anniversary dinner and stated it is a great organization. He also had lunch at the Dover Housing Authority community center and for the presentation to begin the 21st century after schools program. He also met with a representative of Senator Gregg's office to discuss various issues that the city would like the Senator to support. He also attended several ribbon cuttings for new businesses. He reminded the Council of the upcoming facilities tour on Saturday, February 21st, beginning at 9:00 a.m.

Finally he discussed the formation of the Cable Review committee stating that the contract was last negotiated in 1976 and is set to expire in 2006. Obviously technology has come a long way since this contract was negotiated and feels that the process needs to begin now for the next negotiation. With

the acceptance of the Mayor's Report he would designate that the 8 members of the committee, which was established by a previous Council Resolution, will consist of (1) City Councilor, (1) School Board member, (1) DEDC member, (1) Chamber of Commerce member and the remaining 4 made up of the public. He urged the public to fill out forms at the City's Clerk's Office. Also, with the acceptance of the Mayor's Report he will appoint Councilor Bob Keays to be the representative on the Recreation Advisory Board if the ordinance passes later this evening.

Reese moved to accept the Mayor's Report, seconded by Trefethen.
Motion passed on an 8-0 vote.

10. CITY MANAGER'S REPORT

Joyal stated that the written report was mailed to the Council earlier and is available in the Clerk office as well as the web site.

Mayberry asked for a follow up regarding he and Hindle's request for more on-line services, i.e., vehicle registration, tax payments. He stated that there was a report done by the Finance Director which he has seen, but would like a workshop held for a full Council discussion.

Joyal stated that the report brought to light various issues and concerns involved with bringing this service to the public.

Mayor Myers requested that a copy of the report be distributed to all Councilors and then they would decide how to proceed from there.

Hindle moved to accept the Manager's Report, seconded by Perry.
Motion passed on an 8-0 vote.

11. UNFINISHED BUSINESS

A. ORDINANCES IN 2ND READING

1. Ordinance #01-01/14/2004, Chapter 131, Offenses, Section 131-17, Use of tobacco products in Henry Law Skate Park. Sponsored by Councilor Dean Trefethen.

Trefethen moved to adopt, seconded by Reese.

Trefethen thanked the students who brought this ordinance forward and especially Caitlyn Reilley. He reiterated the reasons for presenting this ordinance such as the wide age range of skate park users and the desire to create more of a family atmosphere and stated there is a 25' buffer zone around the park as well.

Perry stated he is ambivalent about this because although we do have a right to limit the activity on city property, he feels that it is close to government intrusion. He is concerned that the "paved areas" mentioned in the ordinance includes River Street and doesn't want this to be a problem for other people who happen to be walking their dogs and maybe smoking a cigarette.

DeDe is in favor of the ordinance but is concerned that there is potential for conflicts and hopes that there will be supervision.

Motion to adopt passed on an 8-0 roll call vote.

2. Ordinance #02-01/14/2004, Chapter 109, Fire Prevention and Life Safety, Section 109-29A- Reimbursement Costs Pursuant to RSA 153:A:24, Driving While Intoxicated Accidents and other Criminal Acts. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Mayberry thanked the Chief for bringing the idea forward for discussion and stated that he has received an incredible amount of feedback from citizens on this issue.

DeDe stated that the proposal put forward by the Chief is founded on a positive rationale that taxpayers pay for readiness but there are times when things aren't accidental so there is some justification to having a schedule of fees so that most "good" taxpayers aren't footing the bill for these incidents. However, he feels the subjectivity of the ordinance makes it difficult to support as well as the insurance issues which aren't clear.

Trefethen also thank Chief Plummer and commented on the number of phone calls, e-mails etc. that he received. He doesn't want department heads to feel that they can't be creative and bring forth ideas as a result of the reaction to this proposal. He commented that this Council has made it a goal to bring civility back to the process and asked that the constituents do the same.

Mayor Myers thanked Chief Plummer and stated that the City must provide basic services and agrees that there should be various fines for illegal activities.

Motion to adopt FAILED on a 0-8 roll call vote.

3. Ordinance #03-01/14/2004, Chapter 109, Fire Prevention and Life Safety, Section 109-33, Public Safety Amplification System Required in Large Facilities. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Reese asked about Section 8, annual testing, who will pay for it and what time period will be given to meet requirements.

Chief Plummer stated it will be performed as a part of the departments regular inspection process which there is no fee charged. Plummer stated that there is usually a 30 day time period given to get into compliance but they will work with people under certain circumstances.

Motion to adopt passed on an 8-0 roll call vote.

4. Ordinance #04-01/14/2004, Chapter 3, Administrative Code, Section 3-59, Recreation Advisory Board, adding Council representative. Sponsored by Mayor Scott Myers.

Hindle moved to adopt, seconded by Mayberry.

Mayberry is pleased that Councilor Keays will be the representative due to his extensive background in coaching and his good memory.

Perry moved to amend by inserting "Council" in front of "term", seconded by Hindle.

Motion passed on an 8-0 vote.

Motion to adopt passed on an 8-0 roll call vote.

B. ORDINANCES IN 3RD READING - NONE

C. RESOLUTIONS

1. Setting of the Property Tax Exemption Levels and Criteria for Elderly, Blind, Disabled and Deaf for Fiscal Year 2005. Sponsored by Mayor Pro Tem Jason Hindle and Councilor Matt Mayberry.

Hindle moved to adopt, seconded by Mayberry.

Perry clarified a question that he had raised during the workshop regarding income levels of owners/renters and stated that they are in line with the Section 8 guidelines.

Keays asked if he should refrain from voting because he is a senior citizen who files for the exemption. Mayor Myers stated yes he should abstain.

DeDe stated that assessed values have risen dramatically and for individuals with fixed incomes this is an appropriate action.

Trefethen also supports this because it is the "right thing to do", but wants people to remember that this is a .10 increase on the budget when budget discussions begin.

Reese also supports this but feels there are elderly people in the city who sold their homes and live in smaller homes and are living solely off of this asset money and feels that there is a Catch 22 in this circumstance.

Mayberry agrees and stated that we can work with the Finance Department but we are limited by RSA's. This is a step in the right direction.

Hindle agrees that we are limited at the city level and that we will need to work with our State representatives to address these issues at the State level.

Mayor Myers is also in support of helping the elderly stay in their homes but there are situations that the income/asset levels look the same but really aren't and gave an example. He stated that this is not perfect in its current form, but it is a place to start.

DeDe stated that assets including furniture, cars and jewelry should not be included in the calculation. Mayor Myers stated that this is supported with the caveat that we work with our State representatives to change the RSA's.

Motion to adopt passed on a 7-0 roll call vote, Keys abstained.

12. NEW BUSINESS

A. CONSENT CALENDAR

1. Tag Permit – Dover Girl Scouts, Brownie Troop # 474
2. Tag Permit – Dover Baseball
3. Raffle Permit – Woodman Park School PTO
4. Raffle Permit – Citizens for a Seacoast Aquarium
5. Tag Permit – Dover Girl Scout Troop # 609
6. Tag Permit – Strafford County Stars Girls Basketball Club
7. Tag Permit – Brownie Troop # 866

Hindle moved to grant permits, seconded by Mayberry.

Keys asked about the Strafford County Stars Girls Basketball Club.

The Deputy City Clerk explained that this league is made up of Dover girls including her daughter, as well as some Rochester and Somersworth girls.

Motion passed on an 8-0 vote.

B. RESOLUTIONS

1. Resolution RE: Award of Purchase Order for a New Library Automation System. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Trefethen.

Motion passed on an 8-0 roll call vote.

2. Resolution RE: Award of Purchase Order for Continued Professional General Legal Consulting Assistance. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Reese stated he wants the City Manager to prepare an RFP for legal services from many different firms. He feels this law firm loses more than it wins and he doesn't want them to represent us in the Cable renewal process, but wants George Wattendorf, the City Manager or Asst. Manager Joyal who is very knowledgeable of the subject. He will support this particular resolution, but wants an RFP sent out.

Mayor Myers asked if this is for the cable negotiation process.

Joyal stated that this firm handles many issues, land use, personnel issues, etc. and this \$25,000 is for general issues as they arise including the cable negotiations.

Mayberry asked if this is a long term contract and when was the last time an RFP was done for this service.

Joyal stated they have been representing us for a number of years and are well-known for municipal services and have been very good to work with, although he is unsure of their court record. He feels that we must be careful when sending out an RFP in that you get what you pay for.

Reese stated that the issue is that there are other firms out there and we haven't solicited any of them for more reasonable rates and feels that the question needs to be asked and stated that the low bidder can always be rejected by the Council.

Perry stated he remembers this firm being hired during his 94-95 term on the Council and agrees that it is time to do another RFP which includes a request for qualifications along with a price quote.

Keays agrees with Reese and feels that we already have a city attorney who gets paid good money but Keays isn't sure what he does. The City of Portsmouth has 2 city attorneys and pays no outside legal consultants.

Motion to adopt passed on a 7-1 roll call vote, DeDe opposed.

3. Resolution RE: Council Support for Reinsertion of the Washington Street Bridge Replacement Over Cochecho River (13945) Project in New Hampshire Department of Transportation Ten Year Plan. Sponsored by Councilor Matt Mayberry.

Mayberry moved to adopt, seconded by Hindle.

Mayberry stated he was in Concord today to testify in front of the Public Works Committee along with State Senator Iris Estabrook, Representative Roland Hofemann, Representative Bill Knowles and City Planner Bruce Woodruff and feels that their request to have the bridge put back on the 10 year highway plan received a fairly good reception. There was no vote taken today however. Mayberry clarified that he spoke as an individual and not as a Councilor because this resolution had not yet been passed by the Council. He thanked the Council for their support of this resolution and stated that this will give Representative Hoffemann concrete evidence that the City is in favor. The bridge would be potentially constructed in 2006 if it is put back on the list as originally presented. He then thanked Beth Thompson for her help as well.

Motion to adopt passed on an 8-0 vote.

4. Resolution RE: Dover's 150th Anniversary Celebration in 2005. Sponsored by Mayor Scott Myers, Mayor Pro Tem Jason Hindle, Councilors Robert Keays, Douglas DeDe, Matt Mayberry, Dean Trefethen, Otis Perry, Darlene Colwell-Ellis, and Jerry Reese.

Hindle moved to adopt, seconded by Reese.

Hindle thanked Sam Allen for speaking in support of this resolution and feels that the city has done a great job with past celebrations. He volunteered to be the Council representative on the committee. He stated that for this type of event to be successful it must be supported fully by the city and asked the Council to remember that at budget time.

Discussion ensued regarding past celebrations and activities and the celebrations recently held in Nashua, Keene and Manchester.

Perry asked for clarification if this establishes the committee or not.

Mayor Myers stated this establishes the committee but does not determine membership. He asked any citizens interested to fill out an application at the City Clerk's Office.

C. ORDINANCES IN 1ST READING

1. Ordinance #05-01/14/2004, Chapter 166, Vehicles and Traffic, Schedule I: No Parking Any Time. Wildewood Lane.

Hindle moved to refer to a Public Hearing on March 10, 2004, seconded by Mayberry.
Motion passed on an 8-0 vote.

D. COUNCIL CORRESPONDENCE

1. Letter from Brian T. Stern – Council Rules
2. Letter from Jim Dean – Dover Indoor Pool
3. Letter from Richard Goodnough on Comcast
4. Letter from Bill McCann on Comcast
5. Letter from Bob Lewis on Discretionary Easement
6. Letter from Comcast
7. Comcast - Dover Public Hearing Transcript dated 12/3/2003. *(Full Transcript available in the City Clerk's Office.)*

Hindle moved to accept and place on file, seconded by Reese.
Motion passed on an 8-0 vote.

13. COUNCIL MATTERS OF INTEREST

Reese stated that he noticed the letter from Bill McCann to Comcast was sent to the New Jersey address and explained that this is a billing address only. He stated that the City Clerk's Office should have the correct address to give out to the public to make complaints and referred to Item #6 in the Council Correspondence as the correct name and address (Brian Christensen).

Mayberry reminded everyone that February is Heart Disease Awareness Month for Women.

Perry asked if there has been any response to the Bob Lewis letter regarding the discretionary easement.

Joyal stated this question cannot be answered at this time.

Perry stated it should be answered.

14. ADJOURNMENT

Hindle moved to adjourn at 9:00 p.m., seconded by Reese.
Motion passed unanimously.

Valerie A. French
Deputy City Clerk