

**MINUTES  
DOVER CITY COUNCIL  
CITY COUNCIL CHAMBERS  
REGULAR COUNCIL MEETING  
JULY 14, 2004  
7:00 PM**

**1. MOMENT OF SILENCE**

**2. PLEDGE OF ALLEGIANCE**

Councilor Mayberry led the Pledge of Allegiance.

**3. ROLL CALL**

Those present: Councilor Trefethen, Colwell-Ellis, DeDe, Mayor Pro-Tem Hindle, Councilors Keays, Mayberry, Mayor Myers, and Councilor Perry, also Assistant City Manager Joyal.

**4. PROCLAMATIONS/AWARDS**

**5. CITIZEN'S FORUM**

The Mayor opened citizen's forum stating the rules.

**David Scott** of 220 Back Road is here as a founding member of Citizen's for Sound Government to advance the philosophy of fiscal management. In the opinion of this group the City Manager has produced financial disorder and increased the tax burden over four times the rate of inflation, with increased taxation for most homeowners. Also the City Manager has circumvented the freedom of information law. He read a prepared statement, he is opposed to several items that have come up recently but he is in favor of several resolutions that were proposed to be on tonight's agenda. In summary this group proposes the following actions #1- suspend the City Manager for blatant disregard to comply with state law. #2-appoint a City Manager that will comply, #3- hire an attorney that will report to the City Manager, #4- hire an outside auditor to do an audit of the city books, and #5-conduct a search for a new City Manager.

**Ted Anglace** of 23 Wallace Drive is here with a handout. (see 7/14/2004 city council folder). He agrees with Mr. Scott whole heartedly as he has done some comparison research on various NH websites. When you compare Dover to cities our size we have the highest budget in 2003 and some of the highest paid salaries. He is very concerned about the taxes. In his opinion on the subject of the City Manager, his contract is supposed to roll over for another year on July 22<sup>nd</sup>. We should not re-new it and we should go through this budget with a fine tooth comb.

**William Asbell** of 4 Hall Street has prepared remarks and joined the previous speakers in their opinion of the City Manager and his increasing attempts to not lower the budget. He continued on about Mr. Beecher's salary and how it is way too high. He too mentioned the two resolutions that had been proposed at the agenda setting meeting and are not on the agenda. He is concerned with the unmarked car that the City Manager drives. He mentioned that Joyal and the City Clerk have MOU's and how they are not in compliance with the charter. He has several other issues with contracts and personnel matters. Finally the City Manager's contract allows him to receive any and all benefits of the city staff, this is in conflict. The City Manager does not have the taxpayer's best interest at heart. He urged the City Council to thank him for his 13 years of service and not renew his contract.

**Richard Driscoll** 11 Sunset Drive in Dover is here for the sale of city property, he represents the Dover Fire Relief Association, and he stated the building is a part of Dover's rich history and one of the first fire stations in the city. They would like the City to keep ownership. He has spoken with the Knights of Pythias and they will allow them to use this as an adopt a spot; they feel this could be a welcoming spot for people coming into the City.

**Russ Newell** of 2 Pearl Street is here to follow up on what Mr. Driscoll proposed a few moments ago. They have held the lease on this building for many years. He requests that the city maintain the ownership of this building in the future. They are a declining organization and therefore do not have the money to bring the building up with maintenance where it should be. They have been waiting to have the city council make a decision on this building. He has reviewed the last few meetings where this has been discussed. He does not

understand why Mr. Josselyn wants this. His thought is that he could save the building as they want to preserve it for historical purposes. Two things bother him, one is with the right to know law, and people went in the building when the key would not fit the lock and they entered anyway and walked all around. He feels his right was tarnished as no one let them know they were going inside the building, he feels they should have had the right to their privacy. They are looking forward to working with the fire association to bring the building back up in appearance.

**Attorney Jim Schulte** of 212 Towle Avenue and is representing Mr. Josselyn and the resolution that will come off the table tonight. Mr. Josselyn has been negotiating this sale for many years now. About a year and a half ago when the City adopted chapter 79 of the City code on the process for the sale of city property, this cleared the way for an agreement. This is at least the fourth time this has appeared before the council tonight. Mr. Newell is correct; this property has been leased by the Knights of Pythias since 1968 from the city. However they have not been able to maintain the property and it has deteriorated to the point where it will be hard to fix it up. If you decide not to sell it there are no standards that the Knights of Pythias or the Fire Association would need to go by. Mr. Joyal has proposed a set of standards in an agreement for Mr. Josselyn that has been presented to the city, he explained the details. He urged the council to vote in favor of this resolution.

## 6. PUBLIC HEARINGS

1. Ordinance #11-06/09/2004, Chapter 166, Vehicles and Traffic, Schedule I, No Parking at Any Time, Lisa Beth Circle. Sponsored by Mayor Pro Tem Jason Hindle, Chair, Transportation Advisory Commission. **(SEE ITEM #11A-1)**

The Mayor opened the public hearing.

**Jim Ormond** of 18 Lisa Beth Circle is here to recap some of the events that went on with his street. He thanked the TAC, then reiterated some of the problems in their neighborhood with the cars that are parked there. He feels this is a safety risk and they have had to change their lives to accommodate these kids that are parking there. The neighbors have come up with a plan with the TAC's support in the form of this ordinance. He hopes the Council is not looking at this as a school issue. This is up to the Council to correct the problem.

**Dave Dupont** of Lisa Beth Circle stated the parking issues of the high school just flood over into their neighborhood, he feels the problem will grow worse in the next school year.

Seeing no one else the Mayor closed the public hearing.

2. Ordinance #12-06/09/2004, Chapter 170, Zoning, Section 170-8, Zoning Map, Dover Point Road. Sponsored by Councilor Dean Trefethen, Planning Board Council Rep. **(SEE ITEM #11A-2)**

The Mayor opened the public hearing.

Keays asked if we could limit the presentations to 3 minutes.

The Mayor granted Attorney Malcolm McNeill the time to give his presentation.

**Attorney Malcolm McNeill** stated he represents Mr. Paolini and the area consists of a 20 acre site on Dover Point Road and is located adjacent to Thornwood Farm. He explained the rezoning via a map he displayed. They want it rezoned to a B-5 zone. This is just for the westerly side of the road; it is consistent with the master plan and repeated planning directives. He continued with the details. He explained that if there is a change in zoning it must come from a residential area. This is logical planning for the entire city and the city has spoken thru its master plan. It does not take away the property from the people, it enhances their property. He compared this area to the Weeks Crossing area. What happens if you don't rezone. Mayberry asked to have the presentation cut short as he feels this is the chance to have the residents speak and the Attorney did his presentation last week at the televised council workshop. Attorney McNeill agreed to speak as quickly as he can. He continued his comments. In terms of the summary that has been provided to them from the planning director, this makes sense, but it may not make political sense. He empathizes with the property owners in the area. The character of this road will not change, if there were no houses on this strip, there would be no choice, it would be rezoned.

**Karl Heller** of 10 Dover Point Road is here to oppose the rezoning saying something smells fishy and it is not the Weathervane that is right next door to him. He showed some pictures on how this rezoning will destroy their neighborhood. He rebutted Attorney McNeill's comments saying this is a neighborhood. It is a busy road and sidewalks would be nice, this is a community, the shops at the Week's Crossing have destroyed that end of town. He mentioned several businesses that will be lost if this is rezoned. What will become of Tuttle's, one of the oldest farms in the country; that will be destroyed. They have been fighting this rezoning since this proposal started. This is a united front and they feel they are a vital part of Dover. What will this rezoning do to the downtown, this rezoning will dry it up. Also it will increase traffic congestion, how can it be said that this is not a gateway to this City. This road has been here since the 1600s. and this is not about the 20 acres, this is about the whole city of Dover. Just picture what will happen. He described his pictures. He asked the council to consider all these factors, he then received applause.

**Don Wood** of 12 Dover Point Road stated Karl is his next door neighbor. Mayberry got his thunder on reminding Mr. McNeill that he has had more than enough time to present his case. He feels the council should hear both sides of the story at a workshop not just the rezoning side. He is very emotional about this, he is retired Air Force, and served in Viet Nam and did not expect to have to fight here at home also. He asked them to table this as they do not have all the facts, just one side of the story. At an earlier meeting it was stated there was a zone B-3 in that area, what Mr. McNeill neglected to say is there was only a 100 foot B-3 zone. The zone is R-12, they live in the zone, and it is both sides of the street. And they are not in favor of it. He listed dates and facts that have been made on the opposing side of the rezoning. He continued to rebut Attorney McNeill's and Steve Stancel's comments of past meetings. They misspoke on the numbers of autos that pass thru the area. He knows in his neighborhood there are several businesses and they do not need any more down there. They have handed out flyers for the past month to all areas. He has found no one citizen that was in favor of this rezoning. They feel development has gotten out of control. We can do something different sometimes, we can say no.

**Robert Gaffney** of 54 Dover Point Road says they have 13,000 to 15,000 cars per week. Using this logic why don't we have businesses on the turnpike. They are a neighborhood, Dover is surrounded by communities that do not have shopping areas and they shop in NH. No matter how many strip malls you build, it will not solve your problems, we do not need another miracle mile.

**Richard Drapeau** owns the property at 37 Dover Point Road, his wife owns Drapeau Real Estate, they purchased the property at 37 Dover Point Road in hope of putting their real estate business on that road. They recognize the area as a commercial zone and it has taken on a commercial look to the property.

**Peter Markos** of 8 Renaud Ave which is two streets up from the area in question and he has lived here since birth except for time off for educational purposes, where he was in CA. He does not want to occur here what has occurred near Tuttle's. He grew up shopping at DiMambro's Supermarket what is now Capers. So when he returned from San Diego, he likes to now show friends Tuttle's farm since it is one of the oldest farms in the country. He understands the pain of being on the City Council. His Dad is a former Mayor and has just passed away 3 years ago. He wants to preserve the character and essence of Dover as it is.

**Jackie Poligni** of 14 Dover Point Road is directly across from the proposed rezoning area, this is a busy thoroughfare, there are many joggers and pedestrians along the roadway. They dealt with the minor rezoning that occurred a few years ago. This rezoning will have unfavorable repercussions in the neighborhood.

**Elizabeth Darcy** of 208 Dover Point Road presented a petition to the Mayor ( see folder for 7/14/04). Rezoning is not a small neighborhood issue for these people, this will affect all of South Dover and Dover Point Road has not rezoned itself, she listed several items that contributed to intolerable traffic on this road, they do not need to encourage any more traffic in the area. Her family has lived in Dover over 70 years. More houses, more schools, the population is aging and residents should not be taxed out of their homes. We already have many people come south to shop, and the urban core will become a ghost town. She has been disheartened to read articles in the paper about this and we are encroaching on the wildlife in the area as well. Finally residents of Dover and the taxpayers need to be heard by the City Council. She thanked them all.

**Jack Story** represents the Greater Dover Chamber of Commerce as president, on this issue and he suspects this will be the last time this item is heard. The chamber supports the master plan and rezoning. He read statistics, they believe they must take every opportunity to stop residential development in areas that have been identified for re-zoning. In the last several years Dover has again slipped to the position

of the second highest property tax rate among seacoast properties. He urged them to approve the rezoning.

**Donald Andolina** of 59 Littleworth Road is here to express his opposition from R-12 to B-5, the Planning Board had a split vote, he read from the master plan; it seems to him that whenever zoning restrictions are considered, the greater weight should be given to the residents. Our citizen's rights are in effect tranquil. He urged them to override the recommendation of the Planning Board.

**Jeff Caddle** 10 Roberta Drive lives down near the Knights of Pythias building, his concern is 2 years from now they will want to rezone his end of Dover Point Road. And then we will have another nasty strip as we do in the north end.

**Toni Kretsepes** of 15 Dover Point Road of the challenged area is here before the board (council) who will make a crucial decision on her neighborhood. She realizes they are being represented by their duly elected city councilors. They certainly do not want another strip mall, if we are not the gateway to the city then you better take your signs down that indicates this fact. She revealed the business ventures in this area in the past 25 years that have failed. She listed several including a liquor store that closed saying can you imagine this. OK so now we are down to Capers as to the auto dealerships she listed them with variances they had obtained. She has been an active and concerned taxpayer for 43 years she is deeply committed to preserving the integrity of this beautiful neighborhood. She personally distributed the pamphlets as well. The developers are having a heck of time and want to fill their pockets. It is so easy to tear down paradise and put up a parking lot. In closing if any of you entered these doors undecided, please vote no. You can call us what you want we are dealing with people's homes here. She thanked them, and urged them to please vote no.

**Robert H. Foster** of 192 Dover Point Road is a life long resident and is here to offer sympathy to those homeowners that are being confronting with this situation. This is the only drag into Dover other than coming here by boat. He gave the 1600's history of entering our city. Two thirds of the way down is 1654 on the old Dover Church and the Tuttle s distinction of one of the oldest family farms in the US. He is very proud to be on that road. This is the entrance into NH and this part of the State. They will continue re-zoning right down Dover Point Road and this will be a commercial nightmare.

**Raymond Schwendeman** of 8 Newport Road wants the area to stay the way it is; he just says no to the rezoning.

**Kevin Murphy** of 100 Stark Avenue is here to speak about Stark and it would be a mistake to re-zone in his opinion all that separates Stark Avenue from this rezoning is a handful of homes. Traffic is a concern, he listed things on the way down to the rezoning of the 20 acre site, this is a real residential area. Lets not increase the odds of having another victim being hit on Dover Point Road. He is shocked that the developer would use the Weeks Crossing area to compare with their area. With the lack of a clear plan for development, they feel they are being taken for a ride. Please vote no on the rezoning.

**Charles Carey** of 69 Stark Avenue is here to 2<sup>nd</sup> and 3<sup>rd</sup> and 4<sup>th</sup> what everyone has said so far, this is what is best about our democracy and what is the worst. The developer sits apart from all of this; he hopes they (the Councilors) are really listening, he guarantees his vote is counting on it. He sees the sprawl.

**John Scruton** of 99 Sixth Street has heard about the master plan of Dover and on page 25 of the transportation plan says to steer away from strip malls. He thinks it is time the city has an airing out by having a forum in the auditorium. He wants business to stay in the downtown these people should not have to come here and stay out until 9 at night disputing this.

**Glen Jerry** of 33 Wallace Dr is here about rezoning as his area was up for the same thing last year. He says the same attorney is going to put up 70 homes in his area. He has a lot of sympathy for these people and the neighbors in trying to stop rezoning. He feels it is insulting. And he feels the City Manager has not taken care of the tax base. He feels this is not right.

**Marilyn Follansbee** of 25 Dover Point Road did not plan to say anything tonight however she asked everyone to raise their hand if they were opposed, then she asked for the other side, seven people raised their hand in favor of it. She feels it is very hard to dispute Mr. McNeill; she wants to know how people that have not purchased land know about rezoning before the residents know. She wants a moratorium on rezoning.

**David Scott** of Back Road that is very close to Dover Point Road opposes the rezoning. He stated you would think we were in Moscow, he urged them to vote no on the harmful rezoning

**Lon Meneer** of 31 Dover Point Road stated his wife is a lifetime resident of Dover. They have a lot of stake in the community. He is directly across from affected area where the rezoning has been attempted both times, he is trying to sell his home and is not being successful due to all these problems. His neighbor is Mrs. Follansbee; from his point of view, he comes from Ohio and this is not the gateway to Dover, within a half mile from his house he has several businesses near him, this is not a residential area. As far as walking he can't believe the people that do this. He understands the Council's view, it is commercial already. There is no one putting guns to their head to sell. He wishes a lot of things in this country were as well organized as this group has been. He feels this is a legitimate right to expect this to be rezoned. He too also served in 'Nam' and received several awards, he wants a return on his investment. There has been talk of a topless bar going in and the tax benefits from commercial development are advantageous. He does not know what Mr. Paolini does but he has looked around town and he does good work. His last thing is when they lost the vote last time to rezone, his creative real estate agent asked him to split his property in half. But he needed 3/10<sup>th</sup> of an acre; this put him in a bad situation.

**Ain Baker** of 35 Dover Point Road stated he as well as the Drapeau's bought his property thinking it was going to be rezoned, he has not seen anyone out front mowing their lawn and does not feel it is much of a neighborhood. We have 1000's of cars going by and they plan to sell fairly soon. He is for the rezoning, he is a business owner in Dover and there is no way to expand as there are limited options available to him.

**Clyde Vlass** of 9 Independence Drive in Dover lives in a senior park, he wants a vote of no on this resolution, they are listening to all this discussion and what you say tonight will happen. He came tonight because he was given a pamphlet from Toni even though there is no soliciting in his park. The council has the patience of Gaul, he urged them to give it some consideration, he has been there 14 years. Dover looks nice driving in, but wait until they work on those bridges down by the Spaulding, we are going to have car problems then. He feels there will be problems if this rezoning is passed. He continued giving his opinion of Dover, then said Goodnight.

**Tom Fargo** of 14 Hubbard Road, and Chair of the Conservation Commission as well as the Chair of SRPC stated he applauds everyone that has come here to speak. He had a letter from Toni Kretsepes, he is pointing out page 14 of the master plan regarding habitat, he went over and visited with the neighbors in the area, yes it is really not that great a habitat. The reason is the 13,000 to 15,000 cars per day. Another question that he is trying to answer for the neighbors is why would this be commercially rezoned, he tried to explain that the slope limitation won't be discussed until they know what the development will be.

**Maci Denison** of 282 Dover Point Road appreciates the man trying to sell his house but what gives him the right to get a return on his investment. She has lived here only one year, and is from LA, she likes Dover and Dover has the opportunity to be smart about its development, please do the right thing and vote no.

**Lynn Carey** of 69 Stark Ave stated that was her husband that spoke about an hour ago, She added there have been several accidents in front of her house. She hopes they vote no.

**Seeing no one else wishing to speak, the Mayor closed the public hearing at 9:08 pm**

3. Ordinance #13-06/09/2004, Chapter 170, Zoning, Section 170-8, Zoning Map, Spaulding Turnpike between Tolend Road and Columbus Avenue. Sponsored by Councilor Dean Trefethen, Planning Board Council Rep. (**SEE ITEM #11A-3**)

**Dick Hiltunen** of 34 Tolend Road has been a resident for 51 years and this property has changed hands several times, he has been told there is an Indian burial ground there. This is a very wet area. This land should have been brought up several years ago but no developer would take it. He gave a history of the area, one of the problems is there is a lot of land in that general area that was donated to the City of Dover for a wildlife preserve. He wants them to look into this. Does the city have an inspector that goes around looking at property. Any building in that area should be inspected daily, there are too many houses planned for that one area. He urged them to look up the Indian grave site and Mrs. James k. Horne's wildlife area.

**Bernard Toomey** of 30 Tolend Road stated his property abuts this area, after all this development is done he does not feel it is positive for the city.

**Dick Hiltunen** of 34 Tolend again stated two years ago Dover was called the best area to raise a family and now look at it. North Conway is owned by multinational corporations; it is a hard thing to know a person cannot buy a decent piece of property to build a house on.

**Attorney McNeill** again, summarized briefly what the intended rezoning is, it is 17.3 acres of zone I-4 property off of Columbus Avenue and Tolend Road and the developer will build a sewer line at a cost of \$400,000. It will be limited to age 55 and over senior citizens. The applicant will now pay the sewer tie in rates. The applicant is paying \$600,000 for the property and combined with the price of the sewer it will be over a million dollars. He described his maps and how much land is going to be left open space. All the streets would be private and for 55 year olds and over. The return to the city will be significant and positive.

This is farmland and will continue to be farmland until there is a sewer there. His proposal is different as they are not putting kids in the school. The city gets the sewer; this is in the best interest of the city and was unanimously approved by the planning board and he urged them to vote in favor of it.

**David Eisler** of 344 Washington Street is just downstream from this project. Within the past year he says they have demonstrated their commitment to keeping Dover growing. He urged them to keep in mind that to change it to zone R-20 would have a negative impact on the city and will adversely affect property values and taxes. Washington Street cannot afford any more traffic in the area; they already have approved developments on Washington Street. Children of the area have a right to safe streets, Washington is on the verge of turning into a thoroughfare and this rezoning will have a negative impact on housing in the area. Similarly the added traffic burden on Columbus Avenue will not be worth the risk. A vote to rezone is to dishonor the area and the natural beauty of the area.

**Susan Eisler** also of 344 Washington Street, mentioned the 55 and older development. The attorney said there was no one there to talk about this proposal. This is the first they have known about this. She read a prepared statement. This is an environmentally sensitive site. She mentioned the master plan and how it says the soils are not developable. The site is on a high yield aquifer. Who is to say that sometime in the future the City may need this as an aquifer. She feels there was no public input from the planning board. She took pictures of her property due to the prior rezoning of the area. Her stream is brown and pretty much full of pesticides. This is Dover we are an estuary, if the city council does not protect us, who is going to do that. She thanked them.

**Glen Jerry** of 33 Wallace drive again stated he was a victim of the last re-zoning. He is now only a ¼ mile from this proposed rezoning. He also heard these are private roads and he has heard for two years about the issues with private roads. He feels the gentleman from Washington Street has a valid issue. He is not saying this plan is bad. The council has not had the taxpayers hold a forum to ask the developers questions, this has not been a fair forum, every year they keep moving the target. He wants them to consider the big plan and does not feel they do. These people may not need schools but they are going to need fire service and public safety service. He feels the attorney is representing two conflicting things on the same night.

**John Scruton** again stated he forgot to bring his rural character book with him tonight, then he explained his idea about sprawl in VT, and what are we doing to save our farmland in Dover. We need some farmers on the Planning Board to save some farmland.

**Karl Heller** 10 Dover Point Road is a concerned citizen about this area, what is 55 and older in time this will not stay this way. Please consider the contradicting factors on both these votes.

**Don Wood** of 12 Dover Point Road is here as a concerned citizen on the issue, it appears to him if you have enough money and can extend city services you can get anything you want.

**Susan Eisler** again stated that this is the approved design, she does not know when this was voted on, she does not understand how there cannot be public input.

**Attorney McNeill** again commented regarding the Fosters article that was incorrect and mentioned by the above speaker. There never was a 35 acre lot. As a result of the rezoning the developer could put in 35 homes. What he is proposing is the developer is putting in 77 units in a 55 and older development.

**Toni Kretsepes** again stated you know we are all talking about 55 and over, is this going to be a place where you can't bring your babies.

Seeing no one else the Mayor closed the public hearing.

## 7. MINUTES

- A. Regular Council Meeting – May 12, 2004
- B. Special Meeting/Workshop – May 26, 2004
- C. Council Workshop – June 1, 2004
- D. Special Meeting/Workshop – June 2, 2004
- E. Regular Council Meeting – June 9, 2004

Hindle moved seconded to accept by Mayberry and Trefethen with amendments previously given to the clerk with all in favor.

## 8. REPORTS OF SPECIAL AND STANDING COMMITTEES

- A. Appointments Committee – Councilor Otis Perry

Perry stated they had met this evening at 6 PM and made recommendations for John Swatzenruber and Don Andolina to fill regular openings on the Planning Board and Marcia Colbath was appointed to the Conservation Commission to fill a term also Ed Milman was reappointed to the Conservation Commission and William Wentworth was re-appointed to the TAC, James O'Neil was re-appointed to the Economic Loan Committee. They will meet on Wednesday night, August 11th to interview applicants.

- B. Arena Commission – Councilor Darlene Colwell-Ellis **no report**
- C. Arts Commission – Councilor Matt Mayberry **no report**
- D. McConnell Center Reuse Committee – Councilor Matt Mayberry **no report**
- E. Planning Board– Councilor Dean Trefethen **no report**
- F. Cable Franchise Negotiations Committee – Councilor Doug DeDe **no report**
- G. School Board Liaison – Councilor Doug DeDe **see Council folder for report)**
- H. Solid Waste Advisory Commission – Councilor Otis Perry **no report**

Perry stated they had met twice since last the last council meeting and at the June meeting they worked with the town of Madbury and they approved the contract for Madbury's recycling. Also the recycling center manager is hoping to have more help with Madbury being included and be able to increase the hours they are open. Trefethen says his trash has been missed twice this month. Perry says this issue can be dealt with at contract negotiation time. Trefethen says that Pete keeps track of this but he is not sure of the method.

- I. Transportation Advisory Commission – Councilor Jason Hindle **no report**
- J. Joint Building Committee – Councilor Jason Hindle Hindle stated they met two weeks ago and hired Beloin.
- K. Recreation Advisory Board – Councilor Bob Keays **no report**
- L. COAST Bus – Mayor Scott Myers **meeting cancelled**
- M. Joint Fiscal Impact Committee – Mayor Scott Myers **no report**

Hindle moved seconded by Trefethen to accept with all in favor.

## 9. MAYOR'S REPORT

The Mayor stated we had one more Eagle Scout Ceremony for Daniel Hopkins but he was not able to attend. Daniel Hopkins designed and built a playground at My Friends Place. Also he attended the 4<sup>th</sup> of July celebration as well as a reading of the Declaration of Independence done by the Garrison Players. He thanked the City departments for their work on the fireworks. He kicked off the Cocheco Arts Festival with good weather. He also thanked the Garrison Players for helping to kick it off, he then thanked city employees for getting the park ready. Hindle moved seconded by Mayberry to accept with all in favor.

## 10. CITY MANAGER'S REPORT

The City Manager stated his report was sent to all of them yesterday. He continued, we closed the fiscal year and finance is in the process of submitting their reports. Mayberry stated he is quick to criticize and also quick to commend Beth on her Economic Development Report that she did a great job on. Also he wants to know if the reports can be posted on Channel 22. Hindle thanked the manager's office and Beth for greeting the citizens of

Costa Rica, they had a great time, *they came here* for a tour and Beth did her best to give the history of the City and have it translated for them.

Hindle moved seconded by Mayberry to accept with all in favor.

## **11. UNFINISHED BUSINESS**

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

1. Ordinance #11-06/09/2004, Chapter 166, Vehicles and Traffic, Schedule I, No Parking at Any Time, Lisa Beth Circle. Sponsored by Mayor Pro Tem Jason Hindle, Chair, Transportation Advisory Commission.

Hindle moved seconded by Trefethen to adopt. Trefethen feels there is a lack of parking in general at the high school period. We have a category of kids with a lot of them that cannot even apply for a parking permit but he will support this ordinance. Perry wants this to read at limited times not no parking anytime, Perry moved to amend to a different schedule no parking. Motion to adopt passed on a roll call vote of 8-0.

2. Ordinance #12-06/09/2004, Chapter 170, Zoning, Section 170-8, Zoning Map, Dover Point Road. Sponsored by Councilor Dean Trefethen, Planning Board Council Rep.

**Hindle moved to suspend the rules to vote on the Dover Point Road re-zoning seconded by Mayberry . Motion to suspend passed on a roll call vote of 8-0.**

Trefethen moved seconded by DeDe to agree with the Planning Board vote, the Mayor reminded everyone it will take six votes to affirm the decision due to the petition that was filed. Trefethen reviewed the process up to this point and how this was posted in accordance to law. He has to comment that it is a responsibility of the average citizen to find out what is going on. After three different meetings of the Planning Board they voted for it. He congratulated the people of the neighborhood on running a positive campaign. He reminded them we have several positions open on our Planning Board and perhaps they would like to serve on it. He has listened and he does understand; he just disagrees. He knows it is an emotional issue, this is for the good of all of Dover not just for now but for the future. The master plan is to be taken as a whole. People take it out of context, when he looks at the master plan as a whole it does support this rezoning. He continued making his point. He explained the problems with the places most frequently mentioned such as Ames, Service Merchandise and Stroudwater Books. The neighborhood will change whether it is rezoned or not. The gateway to Dover has changed over the years and will continue to. This is not spot zoning he assured them it is not, no one has to sell their property; this is not the plan. He feels it is unfortunate that the previous council did not approve this. He has given the issue a lot of thought and sometimes a councilor has to make a decision that is not popular, this is it. He urged his fellow councilors to do the right thing and vote for it.

Hindle thanked the citizens for their comments, he appreciates the Planning Department for their presentation but respectfully disagrees with the campaign promise of campaigning on Economic Development, this is not true. He has been voting on painful rezoning matters; just ask Mr. Jerry, they try to balance all needs of the city. He will be voting against the rezoning efforts, no other effort on this board has received more comment. Our master plan is over half a decade old. We must work together to have another "Speak Out Dover" program. Not only is Dover the gateway to the city it is the 7<sup>th</sup> oldest settlement in the US.

DeDe says there is great empathy for the residents of Dover Point Road and yet there is a sense of responsibility. There are many people that have contacted him. This area has rezoned itself; that is an accurate statement. Today Dover Point Road offers residents a significant challenge just to leave their driveways. For those people that moved there years ago this is no longer a peaceful area. This is ultimately destined to become commercial. We should put the zoning into place now. The danger that we face is if we rezone one lot at a time, we lose the opportunity to put standards in place. We who are sitting here in this council 15 or 20 years down the road from now are going to be the ones responsible. This deserves the support of the city council and he will support it.

Perry came to the meeting without his mind made up and is not sure yet, he was leaning towards voting for the zoning change (and after making notes), he is now leaning the other way and the reason is he is not convinced of the planning dictum that says commercial is better than residential development. The biggest reason would be the schools but it seems more and more housing is being put up without children living there. The other reason is the idea he is not sure it is inevitable regarding sprawl. Do we

need commercial space in Dover, we need it in the south part, but he is not sure we need it there. He continued to discuss both sides of the issue. The big issue for him is sprawl, when all is said and done this counts the most for him. Right now he is opposed.

Keays has been listening to the other councilors and he feels they have missed the boat, they say you need commercial property, if you check the tax rolls, the residents are carrying the commercial industries. You take a look at the north side of Dover and it is nothing but a strip mall. What is going to happen when the waterfront is developed. The taxpayer is paying the burden of the city.

Colwell Ellis says this is a difficult and emotional matter, she has listened to all the people and came here tonight empathizing with the residents. As she heard different residents say this is gateway of the city she cannot in good consciences vote for it.

Mayberry says Wow and Ow, nobody likes rezoning, he is still in flux, he likes lots of feedback from lots of people. Mr. Paolini came to him months ago with a proposal and he thought it was a great idea and he committed to him. Then 157 citizens in his ward said no, he asked for lots of input and he got it, on both sides of the issue and people were respectful. This is the second toughest vote he has had to take. This is a neighborhood. He may personally think this rezoning is the best for Dover, but he has to listen to his constituents. This is a difficult decision; he will vote against rezoning but don't clap, this is not a victory for any one. This area will change and the developer will do this eventually. Mr. Paolini was honorable in his thoughts. He encouraged people to work with each other. This is a tough situation for all of us, you know how I feel and 157 constituents contacted him on how they feel.

The Mayor also received the same huge number of emails that everyone did along with all the calls, he also shares their concerns, people said how would you like this in your backyard, well this is in his backyard. The rezoning vote will be the toughest vote he will have to take tonight. He will vote in favor of it, several parcels are already under control there. New houses are not going to do anything for this area. He campaigned against slowing down any residential growth. Land that was once considered residential is being reconsidered. He will vote in favor of it and he will be impacted by it as this is his neighborhood. Motion to adopt fails on a vote of 3-5 with Colwell Ellis, Hindle, Keays, Mayberry and Perry opposed.

The Mayor wants to suspend rules to continue past 10:30 PM Hindle moved to suspend the rules to go past 10:30 PM, Mayberry seconded the motion. Discussion ensued about coming back tomorrow to finish the meeting with several people having conflicts.

Hindle moved to reconvene tomorrow night at 6 PM even though the ZBA meeting is here tomorrow night, Mayberry seconds the motion for discussion. Mayberry has a party for 65 people tomorrow night so he won't be here. The Mayor wants to finish tonight as well.

Motion to finish the agenda tonight passed on a roll call vote of 8-0.

3. Ordinance #13-06/09/2004, Chapter 170, Zoning, Section 170-8, Zoning Map, Spaulding Turnpike between Tolend Road and Columbus Avenue. Sponsored by Councilor Dean Trefethen, Planning Board Council Rep.

Hindle moved to suspend the rules to bring item 11 B-3 forward, Trefethen seconded the motion. Motion to suspend passed on a roll call vote of 8-0.

Trefethen moved seconded by DeDe to adopt. Trefethen explained the ordinance and how the land could not be used for industrial but we will get a sewer line. This sewer could be used for 100's of other acres in that area. It is true we have to maintain the sewer, but we are billed to do this. The Mayor says there is no petition for this vote. So there would need to take a simple majority vote, Perry is in favor of this proposal. He feels getting the sewer out there to the remaining un-zoned land is important.

But he does want the council and Planning Board to take action to make it remain for 55 years old and older. Mayberry asked can the sewer line be extended to another neighborhood. Mayberry has two constituents that would like the sewer. Steve says the shorts answer is yes, but they are still in the concept phase of this project and it may not go through to Columbus Avenue. DeDe shares the concerns of Perry and the understanding that the covenants that this will take place are for the 55 and older. He wants this added into the ordinance. Joyal explained that is not possible with tonight's action. Keays says when this was presented it was said that the city would give the developer some land, the parcel in question is 3 ½ acres to be conveyed from the city but this is a separate transaction. Keays asks is it for a road, Joyal says for a road and the reconfiguring of the land they already have.

Colwell Ellis says people have come forward and this is in her ward, she feels in the long range goal it will benefit all of us, if there is an aquifer there it will be addressed at a later time, she is in favor of this. The Mayor is also in favor of this issue. He feels we need to keep things straight in the future about private roads, etc.

Motion to adopt passed on a roll call vote of 6-2 with Hindle and Keays opposed.

**B. ORDINANCES IN 3<sup>RD</sup> READING**

**C. RESOLUTIONS**

1. Resolution RE: Sale of City owned Property. Sponsored by Mayor Scott Myers, by Request. **(TO BE REMOVED FROM TABLE)**

Hindle moved to remove this item from the table seconded by Trefethen with all in favor. Hindle moved to adopt seconded by Trefethen. Trefethen stated he was going to vote for this when he was contacted by the Fireman's Association, his concern is we as a city are never going to maintain it, we have not done that, but we now has a proposal that will address it. He will vote against this. Mayberry asked if we have a proposal from the firefighters, he is torn because Mr. Josselyn came forward 6 or 7 months ago, now we all of a sudden have heard from the Knights of Pythias and now the firefighters are here with nothing in writing. He likes the Fire Association but his vote is for Mr. Josselyn. Joyal has nothing in writing so far. The Mayor was in a similar situation as Trefethen but his main concern is that it will be maintained and he is pleased that Mr. Driscoll came forward saying they will take care of it. He will be voting against this but would like to see a written proposal in a relatively short time with prohibition of change of the architectural design; he much prefers the city to keep ownership of it. Motion to adopt fails on a vote of 1-7 with Mayberry in favor.

**12. NEW BUSINESS**

**A. CONSENT CALENDAR**

1. Tag Permit – Dover Little Green Football
2. Tag Permit – Knights of Columbus, Council #807
3. Tag Permit – Dover Chamber of Commerce
4. Raffle Permit – Community Services Recreation Division
5. Fireworks – Dover Coalition for Youth/Dover Police Department
6. Tag Permit – Somersworth/Berwick Youth Hockey
7. Block Party – Mt. Vernon Street Neighborhood

Hindle moved seconded by Colwell Ellis to grant. Mayberry asked about the Mt. Vernon Street block party, Joyal stated it has been approved by the Police Department. All were in favor of granting.

**B. RESOLUTIONS**

1. Resolution RE: Award of Bid #B04041 for Chemicals. Sponsored by Mayor Scott Myers, by Request

Hindle moved seconded by Mayberry to adopt. Motion passed on a roll call vote of 8-0.

2. Resolution RE: Award of Bid #B04050 for Sawdust. Sponsored by Mayor Scott Myers, by Request.

Mayberry moved seconded by Perry to bundle resolutions 12 B-2 thru 12 B-9 with all in favor of bundling. Hindle moved seconded by Mayberry to adopt. Motion passed on a vote of 7-1 with Keays opposed.

3. Resolution RE: Award of Bid #I04048 for Wood Ash. Sponsored by Mayor Scott Myers, by Request.

Mayberry moved seconded by Perry to bundle resolutions 12 B-2 thru 12 B-9 with all in favor of bundling. Hindle moved seconded by Mayberry to adopt. Mayor is glad we did not go w low bid and that we went with a proven supplier. Motion passed on a vote of 7-1 with Keays opposed.

4. Resolution RE: Award of Purchase Order for Specialized Crosswalk Imprinting Services. Sponsored by Mayor Scott Myers, by Request.

Mayberry moved seconded by Perry to bundle resolutions 12 B-2 thru 12 B-9 with all in favor of bundling. Hindle moved seconded by Mayberry to adopt. Motion passed on a vote of 7-1 with Keays opposed.

5. Resolution RE: Award of Bid #B04051 for Playground Equipment. Sponsored by Mayor Scott Myers, by Request.

Mayberry moved seconded by Perry to bundle resolutions 12 B-2 thru 12 B-9 with all in favor of bundling. Hindle moved seconded by Mayberry to adopt. Motion passed on a vote of 7-1 with Keays opposed.

6. Resolution RE: Award of Purchase Order for Liquid Propane (LP) Gas. Sponsored by Mayor Scott Myers, by Request.

Mayberry moved seconded by Perry to bundle resolutions 12 B-2 thru 12 B-9 with all in favor of bundling. Hindle moved seconded by Mayberry to adopt. Motion passed on a vote of 7-1 with Keays opposed.

7. Resolution RE: Award of Bid #B05001 for Bituminous Cement (Asphalt). Sponsored by Mayor Scott Myers, by Request.

Mayberry moved seconded by Perry to bundle resolutions 12 B-2 thru 12 B-9 with all in favor of bundling. Hindle moved seconded by Mayberry to adopt. Motion passed on a vote of 7-1 with Keays opposed.

8. Resolution RE: City of Dover Application to the NH Department of Environmental Services for a Drinking Water State Revolving Loan. Sponsored by Mayor Scott Myers, by Request.

Mayberry moved seconded by Perry to bundle resolutions 12 B-2 thru 12 B-9 with all in favor of bundling. Hindle moved seconded by Mayberry to adopt. Motion passed on a vote of 7-1 with Keays opposed.

9. Resolution RE: Acceptance of NHDES Grant to Conduct a Seacoast Water Systems Emergency Interconnection Feasibility Study. Sponsored by Mayor Scott Myers, by Request.

Mayberry moved seconded by Perry to bundle resolutions 12 B-2 thru 12 B-9 with all in favor of bundling. Hindle moved seconded by Mayberry to adopt. Motion passed on a vote of 7-1 with Keays opposed.

10. Resolution RE: Declaration of Vacancy in Ward 6. Sponsored by Mayor Scott Myers, by Request.

Hindle moved seconded by Mayberry to adopt. Mayberry wants this posted on channel 22, Colwell Ellis wants to know if the candidates will have a chance to talk with everyone, the Mayor says there is nothing planned as yet. Motion to adopt passed by all.

11. Resolution RE: Recycle Center Agreement with Town of Madbury. Sponsored by Councilor Otis Perry and Councilor Matt Mayberry.

Item removed as it was passed at the 6/9/2004 meeting.

12. Resolution RE: Acceptance of Lease Agreement with Clean Gear of New England and Dover Ice Arena. Sponsored by Mayor Scott Myers, by Request.

Hindle moved seconded by Trefethen to suspend the rules to bring item 12B-12 forward. Motion passed on a roll call vote of 8-0. Hindle moved seconded by Mayberry to adopt.

Colwell-Ellis asked if on the monthly rent on it will be locked into a three year timeframe.

Mayberry clarified that Mr. Schwendeman is making an investment in our infrastructure, Joyal says the last whereas says they are in favor of the lease, the last Arena Commission minutes say they are in favor of the proposal, this will allow us to make an agreement with Mr. Schwendeman. Perry asked if the cleaning will take place at the arena or off site, and will we be supplying the water or the chemicals. Joyal says the only thing we are providing is the room; the client will pay all costs. Trefethen says if we do all this for 3 years this scares him, he has a problem with the terms. He does not want ridiculous low prices in rent for ever and ever. After the 3 year period we will renegotiate. Trefethen asked if we don't have an official lease yet why are we not coming back with the official one. Joyal is coming sooner than later with this initial proposal and before he gives the details to the gentleman (then he does not see how this could be approved). Mr. Schwendeman stated the whole

thing is going to be around \$18,000 to \$20,000, and he understands this will not be longer than a 3 year lease, but the City is going to have a store front, he already has a machine; he also has a contract as far as water, etc, he will be on a separate meter. Everybody is in place, he just needs a yes or no. Mayberry asked the definition of 'us' is it the City Manager's office or the council, Joyal says we can structure the deal as you want but there are a lot of details that are still up in the air. Mayberry says is this almost like a consensus of the council. But 3 years from now, he would like the city council to be able to approve a new contract.

Perry asked is the service being offered by anyone else. Joyal says this is nothing he would propose taking on; this a valuable service. Keays asked Mr. Schwendeman does he have other shops in other areas through out NH. Mr. Schwendeman says the closest ones are in Saugus, MA and Portland ME and the machine can also do firefighters outfits and police clothes. As a sports person he has had to throw garments out because of the mold and the yeast. He is going to start with hockey equipment by cleaning it. Keays asked how many employees, as of right now does he have. Mr. Schwendeman says only him and it will be actually \$1000 a month, \$500 of it will be taken off the improvements. Keays wants to see the lease before it is done. Joyal can be authorized to approve it. DeDe feels the gentleman is willing to put his money up so we should give the Assistant City Manager the chance to negotiate this agreement. The Mayor agrees and feels 3 years is a relatively short time. Keays says we did not put that hockey arena up so we could rent rooms. He is not in favor of this. Motion passed on a roll call vote of 6-2 with Trefethen and Keays opposed.

**13. Resolution RE: Contracting with Outside Counsel Legal Services on an as needed Basis.  
Sponsored by Mayor Scott Myers.**

Hindle moved seconded by Mayberry to adopt. Trefethen would like to know ahead of time what we are going to use these services for and who are these firms working for. Joyal says they represent the City of Dover and the citizens of Dover, they compliment our existing attorney. Joyal says they have different hourly rates and it depends on the issue. Joyal says this will exceed what ever was budgeted. Trefethen is very concerned that these firms will be used against the council by city staff. Joyal assured him this would not occur. If there are issues that come up with individual councilors, this is simply to provide advice. Trefethen still has a problem with this; he does not feel they are being informed properly, Joyal say that the council can get an opinion from any of the legal counselors at any time.

Motion passed on a roll call vote of 5-3 with DeDe, Hindle and Keays opposed.

**14. Resolution RE: City Manager's FY 2005 Contract. Sponsored by Mayor Pro-Tem Jason Hindle and Councilor Dean Trefethen.**

Hindle moved seconded by DeDe and Mayberry to suspend the rules to introduce item 12 B-14. Motion passed to suspend on a roll call vote of 7-1 with Perry opposed.

Hindle moved seconded by DeDe to adopt. The Mayor stated he saw this resolution at the agenda setting session last week and the Mayor pulled it as the City Manager told him that it would not be legal. Hindle clarified that he is presenting this with no ill will but could not attend the agenda setting because he was sick.

Mayberry feels everything needs to be brought forward, but he wants to find out if we can do this legally so he wants this tabled until we can get independent counsel. Hindle says are you proposing to pick an independent firm to make sure this is legal, Mayberry says one of the six we just hired (in the previous resolution).

Joyal suggested that ultimately, any one of those attorneys work directly for the City of Dover and therefore the City Council as a whole. Hindle made a motion to refer this resolution to Rath, Young and Pignatelli and request that they come next week to discuss the validity of this resolution. DeDe seconds the motion. Trefethen asked is this a non public or public meeting, Joyal says it will be considered a non meeting with an attorney in the room. Perry will not be here next Wednesday, he will be in Colorado but he thinks we need advice on how to deal with labor relations in general between us and the rest of city employees. If we are going to do this we might as well deal with all of this. He would like to be there as well. Keays asked does the City Manager work for the city council or the other way around. Then how come when you want to look up a record, you can't look at it. To get an answer you need to come back in 2 or 3 days. Are we under the employment of the City Manager. Discussion ensued between Councilor Keays and Joyal clarifying that Councilor Keays had asked to review an employee's qualifications from an application and resume contained in the employee's personnel file. He briefly explained the Council's role in policy making being separated from the City Manager's responsibility under the Charter for personnel management. He also indicated that 91-a would not allow access to an employee's personnel file. Hindle wants to amend this motion to have the meeting held on Monday night, the Mayor cannot meet on Monday, we will stick with Wednesday, the 21<sup>st</sup>, at 6:30 PM then. Hindle moved seconded by Trefethen to table until next week and Mayberry wants to have a conversation with the City Manager on this issue. Perry says there seems to be an element of distrust, motion passed on a vote of 7-1, with Perry opposed.

**15. Resolution RE: Memorandums of Understanding and Merit Plan. Sponsored by Councilor Doug DeDe.**

DeDe moved to suspend the rules seconded by Colwell Ellis to introduce item 12 B -15. Motion to suspend passed on a roll call vote of 7-1 with Perry opposed.

DeDe moved and read his resolution, on MOU's, seconded by Hindle. DeDe stated the reason to suspend the rules was for him to explain why this was not on the original agenda. He read the opinion that was offered by the city attorney, then he read the city charter C5-3 and from several other documents.

In his opinion this does not refer to the correct section of the city charter. Mr. Wattendorf seeks to apply a whole different interpretation than he has. DeDe referred to several RSA's including 31:9, Legislative Councils, Chapter 47, the auditors, Chapter 49 powers and Chapters 44-48 as he continued reading his prepared statements.

Mayberry commented that he has sat with Joyal for an hour and a half and what he walked away with was it was the consent of the council that the City Manager got these contracts written. Granted he would have wanted to see that we entered into these contracts but they took no action to veto these contracts. City councilors entered into these agreements to get out of having a union contract with the department heads. This is an imprudent waste of taxpayer's money. Perry will also vote against this because he understands what we went through and he knows that they directed the City Manager to re direct the efforts of the department heads away from a contract. They were aware of the method being used but not the details. He is voting against this and he is not a lawyer and neither is DeDe so he is not sure about the legality of all this; labor negotiations are touchy situations especially in the municipal field because of the checks and balances of the system.

Keays asks if we are talking about the MOU's with the department heads. He had about 475 pages from Wattendorf on the agreements; he could not see anything in there where they had to go to the council for approval. He is going to vote for this. He wants this handled in the right way. Trefethen is going to offer a motion to table to the same law firm whether we should do this or not, if they say yes, Hindle seconds the motion. DeDe motions to submit this to Rath, Young and Pignatelli, Perry says and to refer it to the same meeting of 7/21/2004 with the same law firm, all were in favor.

### **C. ORDINANCES IN 1<sup>ST</sup> READING**

1. Ordinance #15-07/07/14/2004, Chapter 99, Eating and Drinking Establishments, Section 99-3-A, Fee Schedule. Sponsored by Mayor Scott Myers by Request.

Hindle moved seconded by Perry to refer to a public hearing on 8/11/2004 with all in favor.

### **D. COUNCIL CORRESPONDENCE**

1. Letter – Comcast, Brian Christiansen
2. Letter – Re: Dover Point Rezoning – Jeff and Janet Caddle
2. Wetlands Application – Woodwind Farms, LLC

Hindle moved seconded by Mayberry to accept and place on file with all in favor.

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

Hindle stated he wanted to thank everyone for their professionalism with regards to these zoning issues. Keays stated he had received a call from a constituent stating there are no speed limit signs from Middleton Lumber all the way down Central Avenue and that would allow people to go as fast as they want through there. Joyal will look into it with the police department but feels it is part of the urban compact where there are set speeds.

Mayberry commented about the end of Wilbrod and Glenwood Avenue, there is no stop sign there and can someone look into it.

### **14. ADJOURN**

Hindle moved seconded by all with all in favor at 12:30 PM.