

**MINUTES  
DOVER CITY COUNCIL  
CITY COUNCIL CHAMBERS  
REGULAR COUNCIL MEETING  
SEPTEMBER 8, 2004**

**NON-PUBLIC SESSION  
CITY MANAGER'S OFFICE  
6:30 PM**

The City Council met in closed session to discuss matters relating to personnel.

NOTE: This session was considered a NON-MEETING IN ACCORDANCE WITH RSA: 91-a.

**7:00 PM**

**1. MOMENT OF SILENCE**

**2. PLEDGE OF ALLEGIANCE**

Councilor DeDe led the Pledge of Allegiance.

**3. ROLL CALL**

Present: Councilor Darlene Colwell-Ellis, Councilor Doug DeDe, Mayor Pro Tem Jason Hindle, Councilor Robert Keays, Mayor Scott Myers, Councilor Otis Perry and Councilor Dean Trefethen. Councilor Matt Mayberry arrived at 7:15 p.m.

**4. PROCLAMATIONS/AWARDS**

**5. CITIZEN'S FORUM**

Mayor Myers opened the citizen's forum and reminded everyone to please limit their comments to 3 minutes, to identify if they are speaking on behalf of a group and to sign in.

Rick Hebbard, 97 Spruce Lane – asked that the Council suspend the rules to allow people to speak past the 3 minute limit as there are a lot of people who have a lot to say. He feels it is a violation of civil rights and free speech to limit. He demanded a vote be taken.

Don Medbury, Covered Bridge lane – agrees with Rick Hebbard and also called for a vote.

***Councilor DeDe clarified that this motion must come from the Council and would require a 2/3 vote to suspend the rules. No motion was made.***

Robert Fredette, 109 Back Road – stated that safety comes first, everything else comes second. He resents that the Council has been intimidated by a small group of people, including people who don't live in the neighborhood. He has known for months that this road was going to be upgraded and the trees began being cut months ago. He was glad when it began and feels that a scenic view is not worth potential loss of life. He feels that the current 19' width doesn't allow enough room to safely jog, walk, push baby carriages etc. especially when 2 vehicles are passing each other.

*(Some of the spectators began to interrupt saying that the speaker was past the 3 minute mark. The Mayor requested civility and respect in the Chambers).*

Edward Bleiler, 28 Isaac Lucas Circle – stated he has been a resident of Dover for 9 years and has heard complaints about Back Road for those 9 years. He agrees that the current 19' road width isn't enough and related a story about Pond Road in Wellesley Mass with similar circumstances. He stated that widening the road will make accident figures go down, not up.

Ann Fredette, 109 Back Road – lives on the part of the road that had already been dug up and widened and has been waiting for the pavement ever since. They have been living in a dust bowl all summer and have been unable to open up windows most of the time. She then presented a petition to the Council with the signatures of every neighbor on the portion of the road that had already been widened to continue the job and widen the road to 24'. She concluded by stating that the road can still be scenic at 24' but will be safer.

Elaine Thurston, 174 Back Road – stated they bought their house back in 1967 at which time there were only 2 other houses out there and it truly was a country road. Now so much of Back Road has been developed and she feels that the amount of traffic requires that the road be upgraded and widened to make it safer. She stated that there are various groups of runners that use Back Road including Dover High and St. Thomas Aquinas and is concerned for their safety. She stated she would have liked to have had the road stay the way it used to be, but realistically the road needs to be widened.

Ernest Schmeisser, 180 Back Road – also in favor of widening the road because in the 3 years since he has lived there the traffic has risen significantly and he has to dodge cars when walking his dog. He also feels that it is more than an issue of scenic view versus safety and widening it by 5' won't make it unscenic.

Bruce Lander, 1 Cullen Bay Road – stated his property abuts Back Road and explained how the area of Back Road/Middle Road etc. is the perfect route for joggers and walkers. He stated that one tree in his yard has been hit 4 times and feels that widening will help. He concluded by stating that the "scenic" Back Road currently is plastered with neon signs and wonders when public safety became a referendum.

Elizabeth Dubois, 3 Emery Lane which also abuts Back Road is against the widening and feels that this will become a traffic aversion route from Dover Point Road even more than it is already. There has been no traffic study done by the City according to the City Engineer but she has obtained other traffic counts from the NH DOT which projects that widening of Back Road will redirect ½ of the traffic from the highway. The neighbors were not consulted prior to this project and she feels that the higher speeds the cars will travel on the widened road will not make it a safer area.

Laurie Lander, 1 Cullen Bay Road – stated that increased traffic is to be expected with growth and related a story about seeing her neighbor almost get hit trying to get mail out of his mailbox.

Duane Grasso, 1 Pebble Hill Drive – began by stating he supports City Manager Beecher. He then asked that the Council engage in critical thinking, not emotional thinking. The condition of Back Road has been in need of repair for a long time and feels that all of the residents agree that there are many pedestrians who use or want to use that road, but he doesn't understand how some of them think that 19' is wide enough for everyone. He stated that the repaving of the road itself regardless of how wide, is what will cause the increase in speeding and that making it 24' will allow for a shoulder that will be safer for pedestrians. He stated that this road is being paid for by all of the taxpayers of Dover and can be used by them as well. 2 ½ feet added to both sides of the road will not ruin the scenic value and asked the Council to make the improvements in the name of safety before someone gets hurt.

Frank Thurston, 174 Back Road – stated that back in 1967 when he bought the house they were glad when they got their road oiled and sanded every three years, but times have changed and the population makes it necessary to make the improvements to make it safer.

Joanne Mainella, 399 Back Road – walks on the road and is against widening because she feels that traffic will move faster and will cause more people to use Back Road as a shortcut to downtown.

Julie Black, 19 Emery Lane – feels that there are pros and cons on both sides of the issue, but she does feel that widening the road will increase the speed as she finds herself going faster on Middle Road now that it has been redone. She feels that there should be some compromise between the widening and cutting down of trees.

Lisa Schulman, 153 Back Road – wants to keep Back Road the way it is and is why she bought her house there instead of Dover Point Road. She uses the road to walk her dog and does see speeders already, but feels that the widening will increase the traffic and the problem.

Kyle Sandahl, 75 Back Road – has lived in Dover many years but at current address for 1 year. He runs the loop and feels that there really isn't enough room especially in the winter. He feels that speeders will speed regardless and that this is an enforcement issue. The traffic will increase on the road because it will be smoother not because it is wider.

*(The Mayor again had to ask for civility and respect in the Chambers)*

Diane Morgan, 405 Back Road – stated that her concern is the real estate value and that she moved there because there was no yellow stripe on that road. She stated that other people moved there for that reason too and they shouldn't ask her to give up her investment.

Steve Rowe, 350 Back Road – passed around some aerial photos showing the Back Road area and the canvas of trees that he is concerned will be taken away. He also bought in the area because it was a country road and wants to be able to walk with his baby on the 19' road.

Connie Schmeisser, 180 Back Road – supports the widening and stated that she had to stop walking on part of the road because it is so narrow and she fears for her safety.

Edward Minerowicz, 268 Middle Road, lives on the corner of Middle and Back Roads, supports improving Back Road but isn't convinced that widening is going to make it safer. He feels that it is unfair to burden the police department with the faster traffic that will come as a result of the widening. He also feels that although some trees may need to be removed, there have been some oaks and hickory trees removed that did not need to be. His big oak tree in his yard was supposed to be removed but Doug Steele intervened. He has spent \$3,000 to put boulders on the Middle Road side of his yard to protect his property and kids playing in the yard and wants the trees to stay for the same reason.

Dave Morgan, 405 Back Road – has lived there since 1998 and has seen 4 accidents in front of his house, but not one of them was within 24' anyway and feels that having lines on the road won't stop accidents from happening as it is the speed that causes the accidents. He distributed a traffic study which shows that none of the reasons being given for widening the road is going to prevent accidents, and urged people to slow down, pay attention and not drink and drive.

Jacqueline Ayer, owner of 160 Back Road – was always worried about her little boys riding their bikes and scooters on Back Road and wants to see the road widened to make it safer for her grandchildren. She feels that the loss of trees is better than the loss of life and wants the Council to let the Community Services Department do their job.

Winona Hunt, 295 Back Road – had a fire in her barn several years ago in January and the fire trucks had no problem getting to her house so feels the argument that safety apparatus can't get up the road is not valid. She stated that she and her children go up and down Back Road collecting beer bottles and other garbage once a month because people already use that road a lot and widening it will make it more of a thoroughfare. She stated that she simply steps off the road when the "dingalings" go by and the city comes out and moves the snow banks back just like other city streets, only they aren't as high a priority, which is fine with her. She concluded by stating she is concerned with the wildlife and wetlands in the area.

Eric Sweetser of Save Dover, began by stating that deer and trees can't hire attorneys and feels that the city may be getting into another money pit. Over the past 3 years the city has been at odds with different neighborhoods and now these groups are coming out to speak. He stated that this all comes down to a lack of planning and communication. Trees are being cut down and some are very old trees, some maple sugaring trees etc. He urged the council to wait until plans are done and doesn't

understand trees being cut 12' into someone's property and it doesn't seem right. He concluded by stating that Silver Street was going to be channelized to make it smaller for safety reasons, so there is a double standard.

John Scruton, 99 Sixth Street – is not in favor of widening. He stated if widening roads made them safer then why are there still accidents on the Spaulding turnpike. He stated that some roads are purposely not striped for safety reasons, but feels they do need a shoulder and boulders for pedestrians. He wonders why planning wasn't consulted or any neighborhood meetings held.

Lisa Pampreen – 202 Back Road – lives in front of a large pot hole and wants the road fixed and just the fact that the road is paved will increase traffic. Leaving it as is won't stop the development and feels we should be planning for the future.

Bill Hunt, 245 Back Road – spoke regarding the petition to designate Back Road a scenic road feels that the suggestion for alternative pedestrian passage in conjunction with the improvements has merit, but wants the city to allow input by professionals and neighbors. Protesters are bothered by the process that failed the neighborhood.

Todd Black, Emery Lane – Likes the public comment process. He didn't know why the trees were being cut down but when it was starting a few weeks ago and they were concerned that it was being made into a major throughway to the waterfront. He agrees that there could be compromise but not become a throughway. He concluded by asking that they remember the neighborhoods next time in the process.

2 little girls got up to speak but were unable to proceed.

Don Medbury, 2 Covered Bridge Lane – spoke regarding the resolution regarding noxious odor from the Turnkey Landfill stating that this affects everyone in the city as some detection of the odors have occurred as far away as the downtown area and the high school. He thanked the Council for the resolution and represents the 140 Citizens for clean Air members and feels that there should be a Dover committee formed to go forth with city support to make Waste Management comply as they have done in other towns such as Danbury CT for failure to address the problem. He feels that everyone is in pain and should stick together. There is a terrible smell within a 2 mile radius, hazardous air pollutants, methane gas and feels that there should be more passion in the resolution.

Scott Mainella, 399 Back Road – feels that full disclosure is important and feels that then Henry Law Avenue residents don't realize that 5,000-6,000 more cars will be coming when Back Road is improved. He feels the Council must protect the citizens and that this road went unrepaired for years so the citizens have claimed it for recreational purposes. He feels it is not a good idea to widen the road and safety is an obvious issue. He stated that Capt. DeColfmacker of the Police Department has stated that direct police patrols are necessary but he feels there is not much of a police presence out there.

Don Medbury, 2<sup>nd</sup> time – stated that there is the argument about closing Turnkey that where are we going to put our trash, but if they would stop bringing in the trash and toxic waste from other states which makes up over 50% of what's out there, then it would extend the life for New Hampshire users.

Dan Ayer, McKone Lane, owns 160 Back Road – stated that if we could back up we wouldn't have this situation and everybody feels that safety is a big concern, but feels if we don't do anything, traffic will still increase and it needs to be made safer not scenic. He would like to be able to leave the trees and still make it safe, but we can't. He concluded by stating that the Community Services Department is doing a great job.

Rick Hebbard, 97 Spruce Lane – stated that this project was approached wrong and cited various laws that he feels have been violated. He talked about the New York Street tree incident where the city was going to cut down trees that they said was on city property but they weren't and the city is responsible for a violation. He stated that the pedestrians only have rights at crosswalks according to

the law. He feels that civil rights have been violated and that there has been no due process, no notification and that this supercedes anything else.

Mary Hebbard, 97 Spruce Lane – Back Road – read passages from some old documents citing the same type of issue that occurred in 1848 and feels that they followed the correct procedure back then and involved the citizens in the process but this has not been the case now in 2004. She also spoke regarding the Waste Management resolution stating that she agrees it needs more “teeth”. Also, she asked about the change orders on the sidewalks after work has already been done and feels that is not good. Also, regarding the negotiated fine to EPA from WWTP for \$60,000 down from 1 million as negotiated and wonders what is the city doing with our tax dollars if we are being fined for violations in the first place.

Gregory Hunt, 295 Back Road – feels that this public hearing is showing democracy at work with both sides in agreement that the road needs to be repaired but we need to enter into discussions to find the best solutions with a balance of information and issues including funds, power, constituent rights, property rights, etc. He feels that the debates show that there is a great love of the neighborhood and city. He continued to discuss NH case law regarding abutters owning the property to the center of the road and can't be taken without due process and that this only came to the surface because neighbors were notified by the administration in a letter in March that road construction was to begin in June which was a good thing, but then other issues that have since arisen should be discussed in a public forum and not dealt with in a vacuum. He is concerned with the safety issues and has examined several traffic studies in which one specifically stated that Back Road would be a diversion road which he feels also impacts other neighborhoods and is concerned with downstream traffic.

Steven Tate – 328 Back Road – votes not to expand Back Road. He stated it is one of the oldest original roads from the 1600's which he feels is pretty historical and feels that it should not be widened. We should show our kids that we value our history. He discussed the trees, plants and animals that are out there and stated that he grew up in the area and wants it to remain a peaceful area.

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

Councilor Mayberry suggested suspending the rules to vote on the Back Road issue, but the consensus was to hold the public hearings first as there were people here to speak on these issues as well.

## **6. PUBLIC HEARINGS**

- A. Ordinance #16-08/11/2004, Chapter 166, Vehicles and Traffic, Section 166-50, Schedule C, Stop Signs on Wilbrod Avenue and Strafford Road. Sponsored by Mayor Pro Tem Jason Hindle, Chair, Transportation Advisory Commission.

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

- B. Ordinance #18-08/11/2004, Chapter 166, Vehicles and Traffic, Section 166-56, Schedule I, No Parking at Any Time, Royer Lane and Ayers Lane. Sponsored by Mayor Pro Tem Jason Hindle, Chair, Transportation Advisory Commission.

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

Robert Gosse, 10 Royer Lane – explained that he initiated this because of the St. Thomas Aquinas students use this road as a parking lot and leave lots of trash. In the winter time it is difficult to get a fire truck down that road and they have a hard time getting out of their driveway.

Elizabeth D'Arcy – 208 Dover Pt. Road – also supports this ordinance as she lives across the street and it is unbearable at 2:30 in the afternoon.

Seeing no one else wishing to speak, the Mayor closed the public hearing. Mayor Myers moved to suspend the rules to bring up 12B-1 on the agenda, seconded by Hindle. Motion passed on a 6-0 roll call vote.

1. Resolution RE: Back Road Upgrade. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Community Services Director Pete Lavoie explained that they are trying to build safe, long-lasting roads and stated that this project has been in the CIP for the last few years. They notified residents of the tree cutting back in March and feels that this was publicized in advance.

City Engineer Paul Vlasich, stated he has been with the City for 18 years and explained his various responsibilities. He further reviewed the various issues of the Back Road area and explained that 24' wide is not part of a wish list but is his recommendation. He stated that when citizens are involved in the process it does allow him to step back and take another look at the thought process and then will get other opinions. On this particular issue he consulted with Chris Mulleavey a Senior Transportation Engineer who is also an instructor at UNH for the Road Scholar program.

Mr. Mulleavey stated that safety is the most fundamental concern. There is also the Peter Gabarro Bike Path to take into consideration. His recommendation is for 2 – 9' wide lanes minimum for vehicles and 2-4' wide areas on both sides which brings it actually to 26'.

Mayberry asked him about the ownership to the middle line issue.

Mr. Mulleavey said he has come across this issue when surveying in the past and people do own to the middle of the road if deeded, but municipalities have the responsibility for safety and have the right to maintain/repair the road including removing tress if they impede safety. He explained there are other issues including wetlands that come into play as well. He discussed a clear zone which if someone goes off the road then a tree would be taken down, but if it is considered to be protective then they would stay.

Trefethen asked about 9' being the absolute minimum width for travel lanes, but what if we don't do the 4' wide bikes paths on both sides.

Mulleavey answered that this is a large pedestrian/recreational area so it should have wider shoulders. He then explained that just the fact that this road is paved will increase the speed on that road for a minimal amount of time, but he feels that widening the road definitely makes it safer to accommodate vehicles and pedestrians.

Keays asked were these people properly notified about the construction. Vlasich stated yes.

Keays stated he has seen the letter which he feels said that they were going to redo the hot top but said nothing about cutting trees. (Rick Hebbard handed Keays the letter, dated March 29<sup>th</sup>, to read).

Keays asked about the wetlands which the city hadn't gotten a permit from the state yet.

Vlasich stated the wetlands haven't been disturbed yet and they have applied for the permit.

Keays continued but was actually recalling the Henry Law Avenue project.

Mayberry asked what traffic calming measures are recommended.

Mulleavey would recommend double yellow line and white lines on side also stonewall and curbs help keep people on their own side and the maximum speed allowed on this type of road would be 30 m.p.h. Mayor Myers asked what if there wasn't any striping.

Mulleavey wouldn't recommend that and feels that it helps define the pedestrian space as well.

Hindle asked about the time line for this project.

Vlasich stated they will be buttoning up the existing area being worked on now and have neighborhood meetings through the winter and finish the rest in the Spring.

Hindle stated that as the Chair of the Transportation Advisory Commission (TAC), he has worked with the administration to develop traffic calming techniques as was done on Bellamy Road which occurred after the neighborhood felt they had not been communicated with either and they began having discussions. He stated they need to finish up the portion of Back Road that is already dug up, but they are scheduling their first meeting with the neighborhood to discuss how to proceed with the rest of the road to be held September 21<sup>st</sup> at 6:30 p.m. and feels this should have occurred 10 months ago.

Hindle then clarified that on January 29<sup>th</sup> the Council met to discuss the CIP improvements and there were two separate issues; one was Henry Law Avenue and the other was general road improvements which was listed at \$400,000. Hindle had proposed to increase that amount to \$1,000,000. Then Councilor Mayberry who had heard the residents concerns about safety requested an additional \$300,000 be put in for Back Road improvements

Mayberry asked if the project can be done for 300,000. Mr. Beecher stated yes.

Mayberry asked if we reroute the bike path will we lose federal TIF funding? Mr. Beecher doesn't know. Mayberry then clarified that the natural topography of the road will limit the width to 19' in some places anyway. Mr. Beecher confirmed this.

Keays asked if we widen to 24' how much of the curve is lost. Vlasich stated there is only one curve that will be decreased but will still be there as we are limited by the right-of-way.

Trefethen asked where are we at this point on this resolution.

Mr. Beecher recommends amending to approve to 24' wide for the current part and to shut down and redesign the remaining part.

DeDe asked has this resolution been moved yet (it had). He clarified that the current language doesn't limit construction area currently. He stated that Back Road is already a regional throughway and if it was a secret before, all of this has brought attention to it now. He stated that the design standards proposed are part of the function of Planning and time has moved on from 400 years ago and gave an example of Old Willets Path in New York State where he previously lived which is now a 4 lane road with traffic lights. He feels that to be narrowly defined as a neighborhood road is inaccurate.

Perry moved to amend resolution to pave to 24' wide and add proper drainage to the area of Back Road which is already ground and refer the remaining 820' to the TAC for discussion of further improvement and traffic calming measures and to further refer the petition for Scenic Road status to the Planning Board and Conservation Commission, seconded by Mayberry.

Discussion ensued regarding when to hold the first neighborhood meeting.

Mayberry asked if the current portion that will be 24' wide will help the safety issue, or is the most interesting part still to come. Vlasich stated the real tricky part is left.

Mayberry asked if this will cause a problem in the winter. Vlasich stated no.

Mayberry continued that he is not impressed with the level of communication on anyone's side but feels that the safety issue is the common theme. In looking at the aerial photos of the area we can see large undeveloped parcels that unless they are turned over to the conservancy it will be developed even more. He feels that we need to look at safety issues before scenery and doesn't agree that the traffic will increase 5,000-6,000 cars, but every citizen has the right to use this city roadway.

Trefethen asked if the pavement will be the rough coat or both coats. Lavoie stated they will lay the binder coat and let it set.

DeDe asked for clarification of the motion which the City Manager provided.

Mayor Myers stated he appreciates the e-mails, phone calls, etc. and apologized for the initial lack of communication. He feels that there needs to be a compromise to share with both users and that we need to be planning for the future development as has been occurring already i.e., Emery Lane etc.

Motion to amend passed on a 8-0 vote.

Main motion as amended passed on a 8-0 roll call vote.

Recess called at 9:45.

## **7. MINUTES**

### **A. Regular Council Meeting – August 11, 2004**

Hindle moved to accept the minutes and place on file, seconded by Perry.

Motion passed on a 8-0 vote.

**8. REPORTS OF SPECIAL AND STANDING COMMITTEES**

**A. Appointments Committee – Councilor Otis Perry (Report submitted)**

**B. Arena Commission – Councilor Darlene Colwell-Ellis**

Colwell-Ellis reported that the fall programs will be mailed shortly and both sheets of ice are in full operation.

**C. Arts Commission – Councilor Matt Mayberry - NO REPORT**

**D. McConnell Center Reuse Committee – Councilor Matt Mayberry (Report submitted)**

**E. Planning Board– Councilor Dean Trefethen (Report submitted)**

Trefethen stated that there is a potential problem with Old Garrison Road and stated that Emerald Woods Subdivision on Littleworth Road will be coming back at the end of September and a 20 unit subdivision on Columbus Ave has been approved.

**F. Cable Franchise Negotiations Committee – Councilor Doug DeDe – NO REPORT**

**G. School Board Liaison – Councilor Doug DeDe – NO REPORT**

**H. Solid Waste Advisory Commission – Councilor Otis Perry - NO REPORT**

**I. Transportation Advisory Commission – Councilor Jason Hindle**

Hindle reported that the TAC will meet on the 15<sup>th</sup> with Rizzo Assoc regarding the Traffic Study and again on the 29<sup>th</sup> for a final public forum for feedback on the latest proposals. The TAC will then review the information in October and come before the Council in November with a proposal.

**J. Joint Building Committee – Councilor Jason Hindle (Report submitted)**

Hindle stated that Earl Goodwin has resigned from the JBC and thanked him for all of his worked on many projects.

**K. Recreation Advisory Board – Councilor Bob Keays – NO REPORT**

**L. COAST Bus – Mayor Scott Myers – NO REPORT**

**M. Joint Fiscal Impact Committee – Mayor Scott Myers – NO REPORT**

Hindle moved to accept the reports and approve the recommendations of the appointments committee, seconded by Trefethen. Motion passed on a 8-0 vote.

**9. MAYOR'S REPORT**

Mayor Myers also thanked Earl Goodwin and stated that Mr. Goodwin is not slowing down, but has many things going on. He stated that anyone interested in replacing Mr. Goodwin on the JBC should submit their name to the City Clerk. He concluded by reminding everyone of the election on September 14, 2004.

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

**10. CITY MANAGER'S REPORT**

Mr. Beecher referred to his written report. He also discussed the assessed value notices will be going out early in order for people to come in and review them with the Assessor's Office as to how they arrived at the valuation. He concluded by stating that the Fire Department has received a \$70,000 physical fitness grant.

DeDe asked why the City Council had to learn of the new business coming to town in the Old Service Merchandise building through the newspaper and not from the Administration.

Mr. Beecher explained that the property owners deal on their own with the businesses so the city is not always aware but we are looking at 3 businesses in Enterprise Park with BFA financing.

He then asked Mike Joyal to review the Arena Financial status.

Joyal stated that in the previous fiscal year the Arena was 250,000 in debt and explained that we are projecting to break even through increased revenues and decreased expenditures.

Next the City Manager introduced Steve Cates of Waste Management to address recent collection issues.

Mr. Cates explained that Waste management changed hands in the last 1 ½ months which left them with a deficit in employees because some of the drivers didn't meet the current standards which caused some of the routes to fall behind. He feels that they are back on track now.

Trefethen stated that this summer every Friday in his Ward the trash and recycling weren't being picked up, but for the last 3 weeks it has been perfect.

Hindle moved to accept the City manager's Report, seconded by Perry.

Motion passed on a 8-0 vote.

## **11. UNFINISHED BUSINESS**

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

1. Ordinance #16-08/11/2004, Chapter 166, Vehicles and Traffic, Section 166-50, Schedule C, Stop Signs on Wilbrod Avenue and Stafford Road. Sponsored by Mayor Pro Tem Jason Hindle, Chair, Transportation Advisory Commission.

Hindle moved to adopt, seconded by Mayberry.

Mayberry stated that he had asked about a Stop sign on Wilbrod Avenue at Glenwood before this was brought up, so why hasn't that been addressed yet.

Hindle stated that the police are still reviewing this area.

Mayberry wants this addressed immediately.

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

2. Ordinance #18-08/11/2004, Chapter 166, Vehicles and Traffic, Section 166-56, Schedule I, No Parking at Any Time, Royer Lane and Ayers Lane. Sponsored by Mayor Pro Tem Jason Hindle, Chair, Transportation Advisory Commission.

Hindle moved to adopt, seconded by Mayberry.

DeDe asked what happens to the people who live there and have company over, should this be limited to school time and events only. Hindle stated that the residents on this street want it to be no parking at all times.

Motion passed on an 8-0 roll call vote.

### **B. ORDINANCES IN 3<sup>RD</sup> READING - NONE**

### **C. RESOLUTIONS – NONE**

## **12. NEW BUSINESS**

### **A. CONSENT CALENDAR**

1. Tag Permit – Sharper Edge Synchro (Great Bay Figure Skating Club)
2. Tag Permit – Dover Youth Football
3. Parade Permit -Walkathon for Granite State Chapter America Parkinson Disease Assoc.

Hindle moved to grant, seconded by DeDe, motion passed on an 8-0 vote.

### **B. RESOLUTIONS**

1. Resolution RE: Back Road Upgrade. Sponsored by Mayor Scott Myers, by Request. (SEE ABOVE)

Trefethen moved to combine items 12B2-3, 5-9 and 11, seconded by Mayberry.

Motion passed on an 8-0 vote.

Trefethen moved to adopt, seconded by Mayberry. Motion passed on an 8-0 roll call vote.

2. Resolution RE: Award of Bid #B05006 for Highway Winter Road Salt. Sponsored by Mayor Scott Myers, by Request.

Trefethen moved to combine items 12B2-3, 5-9 and 11, seconded by Mayberry.

Motion passed on an 8-0 vote.

Trefethen moved to adopt, seconded by Mayberry. Motion passed on an 8-0 roll call vote.

3. Resolution RE: Award of Bid #B05012 for Surveying Services, as Needed. Sponsored by Mayor Scott Myers, by Request

Trefethen moved to combine items 12B2-3, 5-9 and 11, seconded by Mayberry.

Motion passed on an 8-0 vote.

Trefethen moved to adopt, seconded by Mayberry. Motion passed on an 8-0 roll call vote.

4. Resolution RE: Award of Bid #B05014 for Sidewalk Improvements. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Perry and Mayberry.

Perry asked if these will be done this fall. Lavoie stated not all of them.

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

5. Resolution RE: Award of Request for Proposal #B05002 for Engineering Consulting Services – Electrical System Upgrade of River Street Pump Station. Sponsored by Mayor Scott Myers, by Request.

Trefethen moved to combine items 12B2-3, 5-9 and 11, seconded by Mayberry.

Motion passed on an 8-0 vote.

Trefethen moved to adopt, seconded by Mayberry. Motion passed on an 8-0 roll call vote.

6. Resolution RE: Award of Purchase Order for Continued Monthly Metal Collection Services, as needed. Sponsored by Mayor Scott Myers, by Request.

Trefethen moved to combine items 12B2-3, 5-9 and 11, seconded by Mayberry.

Motion passed on an 8-0 vote.

Trefethen moved to adopt, seconded by Mayberry. Motion passed on an 8-0 roll call vote.

7. Resolution RE: Award of Blanket Purchase Order for Wood and Tree Waste Recycling Services. Sponsored by Mayor Scott Myers, by Request.

Trefethen moved to combine items 12B2-3, 5-9 and 11, seconded by Mayberry.

Motion passed on an 8-0 vote.

Trefethen moved to adopt, seconded by Mayberry. Motion passed on an 8-0 roll call vote.

8. Resolution RE: Award of Blanket Purchase Order for Secondary/Backup Vendor for Bituminous Cement Picked up by City Staff as needed. Sponsored by Mayor Scott Myers, by Request.

Trefethen moved to combine items 12B2-3, 5-9 and 11, seconded by Mayberry.

Motion passed on an 8-0 vote.

Trefethen moved to adopt, seconded by Mayberry. Motion passed on an 8-0 roll call vote.

9. Resolution RE: Award of Purchase Order for #4 Heating oil for the McConnell Center. Sponsored by Mayor Scott Myers, by Request.

Trefethen moved to combine items 12B2-3, 5-9 and 11, seconded by Mayberry.

Motion passed on an 8-0 vote.

Trefethen moved to adopt, seconded by Mayberry. Motion passed on an 8-0 roll call vote.

10. Resolution RE: Award of Change Order #2 for Additional Sidewalk Improvements Related Work. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by DeDe.

Lavoie explained that this was to complete ongoing projects while the contractors were already there doing the work on Bellamy Road and Dover Point Road (See overage handout).

Hindle asked about street lights.

Lavoie stated they are in conjunction with the curbing on Mast Road

Mayberry stated that this is a de ja vu moment and feels that the Council should have been made aware of this as they are with other things via e-mail.

Perry stated he understands Mayberry's concerns but feels that the Council cannot give approval over e-mail and must do so in open sessions. He agrees that it would be nice to have advance notice, but the money has already been appropriated, the prices were bid, just some of the work wasn't anticipated.

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

11. Resolution RE: Award of Purchase Order for City-wide Mosquito Control Spraying Services. Sponsored by Mayor Scott Myers, by Request.

Trefethen moved to combine items 12B2-3, 5-9 and 11, seconded by Mayberry.

Motion passed on an 8-0 vote.

Trefethen moved to adopt, seconded by Mayberry. Motion passed on an 8-0 roll call vote.

Hindle moved to suspend the rules to go past 10:30 and complete the agenda, seconded by Mayberry.

Motion passed on an 8-0 roll call vote.

12. Resolution RE: Noxious Odors Emanating from Waste Management Turnkey Landfill Facility Located on Rochester Neck Road in Rochester, NH. Sponsored by Mayor Scott Myers.

Hindle moved to adopt, seconded by DeDe and Mayberry.

DeDe stated that it was mentioned during Citizens Forum that there is a need to form a committee. He stated that it is within the province of the Conservation Commission to form Ad-Hoc Committees on an as-needed basis so the concerned people should petition the Conservation Commission who he feels will be a willing ally to set up a committee. He stated he will however, support this resolution.

Perry asked if the city is doing anything at all to track the odors.

Dean Peschel, Environmental Programs Director – explained that many in the community have smelled the odors and Waste Management and the NH Dept. of Environmental Services have heard the citizens and have formed a committee to receive input from concerned people. The committee is made up of some of the Dover neighborhood, a city representative, which is himself, residents from Rochester in a similar situation, the Rochester Economic Development Director, Waste Management and DES representatives. Their goal is to receive input from concerned residents by way of the committee members. He continued that the DES took this issue seriously and looked for a consultant company to address the odor issue. The firm of Brown/Caldwell who are land fill gas experts will have a final report of 9/20 at the next meeting of the Advisory Committee. He introduced Trey Dykstra of Environmental Services who can be reached at 271-2936 and this information will be posted on the city website as well. He stated they want to know the frequency, strength and where the odors are. Waste Management is installing more gas wells to help alleviate the problem, but if it doesn't they will try something else.

Perry stated that he used to live in the path of the odor out on County Farm Cross Road and is the same issue that occurred with the Waste Water Treatment Facility a few years back. He asked Peschel if he is comfortable reviewing the technology based on the Consultants word and then make recommendations back to the Council.

Peschel stated he is not an expert but stated that the expansion plans have been put on hold and feels the neighbors will continue to let them know what is going on in the area.

Perry requests that periodic updates be made to the Council on this issue.

Mayberry asked if any type of notification has been forwarded to the neighbors on these meetings and also, if the smells aren't mitigated in a reasonable amount of time, can there be a lawsuit?

Hindle asked where these meetings are held.

Peschel stated at the Waste Management facility in Rochester.

Audience member Don Medbury, who lives in the neighborhood, stated he has never been notified about these meetings and he is in constant contact with Waste Management about the odor issue.

Peschel stated the meetings are the 3<sup>rd</sup> Monday of every month and are open to the public. The minutes will be posted on the city web site. Hindle stated that the meeting notices should be posted on channel 22 as well.

Keays asked if the city still monitors the Isinglass River.

Lavoie stated yes.

Motion to adopt passed on an 8-0 vote.

13. Resolution RE: Payment of a Negotiated Fine to the United State Environmental Protection Agency for Violations of the City of Dover's NPDES Permit. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

Peschel reviewed the history of the Waste Water Treatment Plant and stated the city was surprised to learn of being non-compliant in various areas when we have been improving deficiencies right along. The fines would have been \$1,000,000+ so they negotiated down to this current amount as long as all of the areas found to be non-compliant are fixed by the end of the year.

Mr. Beecher explained that the current DES Commissioner who approved the Wastewater Treatment Plant is now the head of the agency that is hitting us with the fines for the last 10 years. Peschel stated that \$60,000 is the compromise amount and will also include establishing an oyster bed in the Bellamy River which is becoming a very clean river.

Mayberry stated that he is pleased with having been kept informed of this over the past year and likes the creativity of adding the oyster beds.

Myers asked if we have exhausted all avenues. Beecher stated we could go to court but it wouldn't be worth the money. Myers stated he feels that this is a major slap to this community as we have spent millions to upgrade this facility.

Motion to adopt passed on an 8-0 roll call vote (confirm with roll call sheet)

14. Resolution RE: Authorization to Pay Legal Invoice. Sponsored by Mayor Scott Myers, by Request.

Hindle moved to adopt, seconded by Mayberry.

DeDe asked why is this a separate authorization for legal services.

Beecher stated this is for the attorney the Council hired.

Perry wants a break down of the services provided and feels that this is a lot of money for the advice that they received.

Motion passed on an 8-0 roll call vote.

15. Resolution RE: Acceptance of Royers Lane as a City Street. Sponsored by Councilor Jason Hindle, TAC Chair. **(TO BE REFERRED TO A PUBLIC HEARING ON 10/13/04)**

Hindle moved to refer to a public hearing on October 13, 2004, seconded by Mayberry.  
Motion passed on an 8-0 vote.

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

1. Ordinance #18-09/08/2004, Chapter 131, Offenses, Section 131-8, Consumption, Sale and Dispensing of alcoholic beverages in City-owned buildings. Sponsored by Mayor Scott Myers, by Request. **(TO BE REFERRED TO A PUBLIC HEARING ON 10/13/04)**

Hindle moved to refer to a public hearing on October 13, 2004, seconded by DeDe.  
Motion passed on an 8-0 vote.

**D. COUNCIL CORRESPONDENCE**

1. Letter – RE: Comcast Programming/Billing Practices - Scott Woodman
2. Wetlands Application – Brian Wilder
3. Petition requesting Back Road be designated a Scenic Road

Hindle moved to accept and place on file, seconded by Mayberry and Perry.  
Perry clarified that D-3 has been referred to the Planning Board and Conservation Commission as a part of 12B-1.  
Motion passed on an 8-0 vote.

**13. COUNCIL MATTERS OF INTEREST  
NONE**

**14. ADJOURN**

Hindle moved to adjourn, seconded and passed unanimously.

**Valerie A. French,  
Deputy City Clerk**