

**MINUTES  
DOVER CITY COUNCIL  
REGULAR COUNCIL MEETING  
MARCH 12, 2003  
CITY COUNCIL CHAMBERS**

**6:30 p.m.**

**1. Non-Public Session: Re: Legal Matters**

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

**7:00 p.m.**

**1. MOMENT OF SILENCE**

**2. PLEDGE OF ALLEGIANCE**

Councilor Christenbury led the Pledge of Allegiance.

**3. ROLL CALL**

Councilors Mayberry, Tweedie, Whitmore, Christenbury, Hindle, Keays, and Mayor Nossiff were present. Mayor Pro Tem Dunnington and Councilor Quigley were absent.

**4. PROCLAMATIONS/AWARDS**

The Mayor read a proclamation recognizing the efforts of the American Red Cross. He then read certificates of appreciation for Patricia Bailly and Sandra Rania for their service to the Conservation Commission. The Mayor said Keays being a member of the Dover hall of fame wants the council to honor one of DHS women's basket ball team members for her outstanding performance. Over four years, she has amassed over 1000 points as one of their star players. She is Shawna Boyle and he cannot speak enough about her; she is an excellent student as well as athlete.

**5. CITIZEN'S FORUM**

Ron Huml is here about the school budget and the Right to Know Law, he feels this law is not being complied with. He wants this broken down by revenue from the State as well as revenue from the taxpayers. He feels as a taxpayer he has a right to this. He feels these two budgets were set up almost exactly like this two years ago, he does not approve of this system. Thirdly people he has talked to on the council are disappointed in the council that they did not vote to open the contracts as they do feel this should have been an option for the unions. Lastly, the \$100,000 that was given to the school a few weeks ago came from vehicle registration money. Four or five years ago the fee was increased and that money was supposed to go into the road fund. The City Manager says he is correct, the fees have increased and we do not touch those except for using them on the roads, this is just the increased amount. Huml added the Portsmouth school budget that was in tonight's paper passed the same as last year.

Roland Hofemann is here as Chair of the Senior Citizen affairs to thank the Fire Department for the excellent work they did on the ceiling of the senior center, he is here to give them a formal thank you. Also, when in your budget deliberation, don't forget the seniors. He also reminded them to review the senior exemptions from time to time.

Tom Fargo is here to speak on behalf of item 12B-4, the Land and Community Heritage Investment Program resolution. Dover was fortunate to receive a grant from round four and they will use the grant to purchase land on the Cocheco River. He urged them to pass this resolution.

## 6. PUBLIC HEARINGS

- A. Ordinance #05-02/12/2003, Chapter 170, Zoning, Section 170-6 B, Definitions. Sponsored by Councilor Parks Christenbury, Planning Board Representative. **(See Item 11A-1)**

No one

- B. Ordinance #06-02/12/2003, Chapter 3, Administrative Code, Section 3-69, Dover Arts Commission, membership. Sponsored by Councilor Matt Mayberry. **(See Item 11A-2)**

No one.

## 7. MINUTES

- A. Regular Council Meeting – February 12, 2003
- B. Council Workshop - February 19, 2003

Tweedie moved seconded Hindle to accept, all in favor.

## 8. REPORTS OF SPECIAL AND STANDING COMMITTEES

- A. Transportation Advisory Commission – Councilor Jason Hindle

Hindle reported the TAC met last month on Feb 26th and next month the council will be getting a sidewalk proposal that will come before them based on the Master Plan of 2000 which stated the city will review all crosswalks and set standards for them. He explained how the process would work. They will be looking at the safety of the pedestrian as well as the safety of the motorist along with the neighborhood.

- B. Joint Building Committee (Horne Street School, DHS Mezzanine) – Councilor Jason Hindle

Hindle reported they approved a \$902,000 addition for the new middle school; also they supported the \$200,000 for the 2<sup>nd</sup> floor of the 8 classroom addition at DHS.

- C. Planning Board – Councilor Parks Christenbury

Christenbury stated the Planning Board continued to handle routine site reviews, also last night they reviewed the agricultural section of the zoning and that will be coming before the council next month. He continued, they are still trying to work on the definition of farms in the City.

- D. Solid Waste Advisory Commission – Councilor Thomas Dunnington

No report.

- E. Arena Commission – Councilor Ray Tweedie

Tweedie reported they had a busy couple of weeks. On March 3<sup>rd</sup> they attended and were part of the committee to review 9 proposals. They graded the proposals 1-9, the assistant city manager organized them, then they interviewed the consultants, they chose Firland Management out of Canada and Chicago. They were the low bidder of \$18,000. This company had extensive experience out of Hooksett. They are experts in their field at correcting rink problems. Manager Beecher signed contracts on Friday with them and they have 12 weeks to complete the study, they should be complete by May 22<sup>nd</sup>, so hopefully they will still have time to make adjustments to the budget. They also attended tournaments at the arena and saw the Great Bay Skating Club on ice and were able to talk to those folks. They need to shift fees around and talk to out of house vendors. Jeff Bardwell as well as

Marty Sullivan were there so they all took a tour of the facility on Saturday and got to see generators and get a better feel for how the arena works.

Mayberry added that the sports tournament that was held at the arena this past weekend had occupied and booked 120 hotel rooms in the area. Keays can't see why we are wasting another \$100,000 to bring a consultant in to tell us what is wrong with the arena; he says the problem is there is not enough volume of teams to support the place. He is very active in sports and he has done his own study and he feels the proper thing to do is to close one ice sheet. Tweedie disagrees, saying one of the key things is based on ratios, and we need to switch these around. People are just renting the ice at a far less rate than what we are paying to run the arena, the consultants in their short time there already said it's too cold and too humid in here, these people that are doing the study are experts in their field. He wants to give them a chance.

Keays is still bothered by the arena in Rochester and how they have been run in the black for years. If you look, you will see that Rochester ice is cheaper than Dover's. Tweedie responds that Keays has analyzed the business plan of Rochester far better than he has. The Mayor stated, just to make it clear for the public, he clarifies that no one that is seated here voted for the new ice arena; but it has been approved and now is running at a loss. He continued, we need to look into converting it to another use, perhaps a soccer field as this is a year round sport. He feels Keays is correct in his observations, also the Mayor concurs with Tweedie that we should continue with the study. We also need a business plan or marketing plan for this.

F. School Board Liaison – Councilor Brenda Whitmore

Whitmore stated on March 3<sup>rd</sup>, Tweedie, Christenbury and herself had met with some members of the School Board who are committed to holding the line on school spending so that the council can make a fair budget decision. Also on the Woodman Park School renovation they are looking at a different strategy this year.

G. Arts Commission

Mayberry reported there will be a meeting on March 13th in the back of the Chambers at 5:15 PM. Mayberry moved seconded by Tweedie, all in favor.

## **9. MAYOR'S REPORT**

The Mayor named Kathi Derby, Nick Skaltsis, Janet Perry and Steve Fournier as well as Mayberry to the Channel 22 committee. Mayberry stated we should be meeting once to resolve issues and bring recommendations back to the council. The Mayor told everyone it is exciting times for the city's sports fans as the first round of hockey playoffs is tonight; tomorrow we have basketball playoffs at DHS. The basketball coach has surpassed all expectations. Mayberry moved seconded by Christenbury to accept, all in favor.

## **10. CITY MANAGER'S REPORT**

The City Manager apologized for the tardiness of the City Manager's report. He stated a couple of items he needs to bring to their attention. Attorney James Schulte has a client that has asked that some accommodations be made on a piece of property on Dover Point Road with the old fire station on it. His client is willing to protect the frontage of the old fire station property. They want to put it out to bid, with some restrictions on the property that will protect our long term interests. He continued that Doug Steele has given him the magic snow removal numbers of \$151,683 over on the snow removal budget. And at the request of council, he has asked Jeff Pratt of Waste Management to explain why the trash has not been picked up on time recently. The Mayor interrupted at this point, saying he needs much more info on why are we considering selling any city property. The City manager wants to do this in a manner that we can keep it as open space and the purpose of it is to be used for farming. Whitmore has other questions to the City Manager on this issue, do we have an appraisal on this

property that we are putting out to bid. She asked has there been no formal appraisal, or is it just based on assessed values. Tweedie wants more info as well, before they go forward with this process. He would like the item moved to the April meeting, the City Manager agrees. The Mayor wondered if Tom Hindle might offer his opinion in April on this historic property. Whitmore wants to clarify to Mr. Huml that in respect to the unions, and the vote of the council that she wanted to make it clear that the City Manager's door is always open to the unions. Also she would like a report on the status of the boat launch. The City Manager will report on that at the next meeting. Mayberry stated he found in the Managers report that the Dover police reported 1223 incidents and the Fire Department had responded to 426 incidents in February, this is just for public information.

Jeff Pratt of Waste Management is here with Steve Cates, site manager and Charles Day, the residential route manager. He is here to answer any concerns the council has with regards to the rubbish collections. Jeff expressed his thanks for their patience thru this long, cold winter. Christenbury understands that this started with the fall leaf collection, he can understand the storms, etc, but he has before him a complaint log with over 200 complaints from residents in just one month. He understands the constraints of the holidays as well as the weather but there is trash under the snow banks and as they begin to melt it will get worse. This is the most complaints they have ever had about a city service. Regardless of the weather and regardless of the holidays this can't continue to go on. If these complaints continue, he will be looking for legal action against the company. This is totally unsatisfactory. Tweedie echoes what Christenbury is saying, he has had many calls himself, more than any other issue in the City. What does the company propose to do, as their service is unacceptable. Jeff feels his action plan is spring, and then on a daily basis they have three round the clock shifts, also they are trying to manage their fleet and the length and duration of the winter has had a terrible effect on the equipment. They understand the Council's frustrations as they are the company's frustration. Jeff says drivers are not the issue; the trucks are the issue, with breakdowns, etc. Tweedie asked is there any way to give the citizens a rebate, Jeff says they will continue to give their best effort to get the recycling and trash picked up, if there is any rebate, he would have to discuss the issue with the City Manager at a later date. They have picked up recyclables in Dover for over 14 years and trash for 8 years before that. They try to keep their employees safe even though they have had to work after dark until 8 or 9 pm sometimes to get through the collections. Mayberry thanked Jeff, saying he is trying to keep it all in balance and how they have been a good company and a good corporate partner to work with in the City. Jeff says the schedule is up and running on schedule as of today, he sees no more adverse issues. Keays says you worked for the City of Dover and were in charge of recycling and you must of seen the cans and bottles all over the streets, we pay a lot for this service in the City, so do the citizens need to pick this trash up or will your company. He will not be tolerating this service. Whitmore congratulated Jeff because for the first time in many weeks all her stuff has been picked up on schedule, however she questioned what the contract provisions are for late pickup. She also still has a concern about the leaves that are buried in the snow still; someone will have to be doing a major clean up this spring. She asked if Jeff is making provisions to do this major clean up, Jeff says there is nothing right now in the contract. Tweedie wonders if Waste Management would be willing to do this as a good faith gesture. Jeff explained they went and picked up leaves four weeks in a row and still people were putting out leaves even though the contract was only for two. Then winter was upon us, we will see what happens when the snow melts. The Mayor feels Jeff and the City Manager will work things out, the Mayor is eternally grateful to Waste Management. He continued one of those two gentlemen (at the back of the room) helped him out one day as he had to go thru the landfill hunting for an important file; this was in the middle of the summer. Christenbury would like Waste Management to make an effort to clean up the trash this spring. Mayberry moved seconded by Tweedie to accept, all in favor.

## **11. UNFINISHED BUSINESS**

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

1. Ordinance #05-02/12/2003, Chapter 170, Zoning, Section 170-6 B, Definitions. Sponsored by Councilor Parks Christenbury, Planning Board Representative.

Mayberry moved seconded by Tweedie to adopt. Christenbury explained that the amendment was omitted from the original zoning ordinance passed earlier this year. Motion passed on roll call vote of 6-0

2. Ordinance #06-02/12/2003, Chapter 3, Administrative Code, Section 3-69, Dover Arts Commission, membership. Sponsored by Councilor Matt Mayberry.

Mayberry moved seconded by Tweedie to adopt. Whitmore wants him to strike his name as chair; Mayberry says that is correct, Whitmore moved seconded by Tweedie to show this amendment, all in favor of amendment. Main motion passed on roll call vote of 6-0.

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

## **C. RESOLUTIONS**

### **12. NEW BUSINESS**

#### **A. CONSENT CALENDAR**

1. Tag Permit – Girl Scout Troop #2218
2. Raffle Permit – American Legion Auxiliary – Unit #8
3. Road Race Permit – Dover Track Boosters
4. Parade Permit – Portsmouth Christian High School

Mayberry moved seconded by Whitmore to grant. Tweedie had a question on the parade route and will it be safe for the children. The City Manager assured him the Police will be involved. All in favor of granting permits.

#### **B. RESOLUTIONS**

1. Resolution RE: Award of Purchase Order for Architectural Design Services for Indoor Pool Lobby and Office Area Renovations. Sponsored by Mayor Alexander G. Nossiff, by Request.

The City Manager pulled this item.

2. Resolution RE: Award of Bid #B03037 for Durham Road – Central Avenue – Back River Road Intersection Project. Sponsored by Mayor Alexander G. Nossiff by Request.

Mayberry moved seconded by Tweedie to adopt. The City Manager says this is a TIP project. Stancel explained the resolution. Hindle recommends after budget season that we have Stancel back to explain these TIP projects. Motion passed on a roll call vote of 6-0.

3. Resolution RE: Award of Bid #B03038 for Self Contained Breathing Apparatus. Sponsored by Mayor Alexander G. Nossiff, by Request.

Mayberry moved seconded by Whitmore to adopt. Chief Ron Clymer came to explain the bid process. Christenbury will vote for it, but this item belongs in the operating budget, he explained we get beat up by spending these leftover CIP funds every year. Motion to adopt passed on a roll call vote of 6-0.

4. Resolution RE: Support of Continued Funding for Land and Community Heritage Investment Program (LCHIP). Sponsored by Councilor Brenda Whitmore.

Whitmore moved seconded by Tweedie to adopt. Whitmore explained the resolution and thanked Tom Fargo for all his work on this. She would like to send a copy to Governor Benson along with a letter, Christenbury echoed Whitmore's concerns on a sense of balance in the State. Motion passed on roll

call vote of 6-0.

5. Resolution RE: Establishment of Dover High School Merit Scholarship Trust. Sponsored by Councilor Jason Hindle, by Request.

Hindle moved seconded by Tweedie to adopt, Hindle explained about the antique bookcase that is now in the superintendents office that they would like to sell and with the proceeds of the sale they would to set up this fund. The Woodman Institute felt no need to have this piece; all were in favor of motion.

6. Resolution RE: Establishment of School Facilities Capital Reserve Fund. Sponsored by Councilor Jason Hindle, by Request.

Hindle moved seconded by Mayberry to adopt. Mayberry asked about the impact fees and what portion goes to the schools, Christenbury says they go to different funds. Whitmore asked if the fee level has been set for the schools. Stancel says at their February meeting, the Planning Board approved the impact fees, he read the amounts to her. Whitmore wondered if there is a cap that we can charge on impact fees. Stancel says there is no cap. Stancel says the concept is these fees should be reviewed on an annual basis. Whitmore thanked Stancel and his staff for their work on this issue. Mayberry asked about duplex fees, Stancel says they used the city's GIS system to determine the location of these. Discussion ensued regarding a moratorium on building; Christenbury says this is a fair way to manage growth in the community and help spread out capital costs. Christenbury says this is how you manage growth. All in favor of the resolution.

7. Resolution RE: Appointment of Senior Citizen Liaison. Sponsored by Councilor Jason Hindle.

Hindle moved seconded by Tweedie to adopt. Hindle points out a citizen will take the politics out of the position. Tweedie knows her personally and she will fit the role perfectly, she has a lot of energy and enthusiasm. Whitmore thanked Hindle for suggesting Joanne Dodge, but how is she going to report to this council as a body. Hindle would like her to do her report at the podium. The Mayor says she can speak at citizen's forum whenever she has issues to report on. Mayberry asked is she liaison for life or does she have a term. Hindle says she can remain through this the term of this council. He is hoping she can formulate a liaison with different service committees in this City. The Mayor says we cannot bind another council, all in favor of resolution, except Keays.

8. Resolution RE: Policy Governing Lowering of City Flags. Sponsored by Councilor Jason Hindle.

Hindle moved seconded by Tweedie to adopt. Hindle is only amending the original resolution to add Citizen of the Year. Tweedie would like to see what we are amending or will this amend the entire 1988 policy we have on record, the City Manager says this resolution will become the policy, all in favor.

9. Resolution RE: Authorizing Release of Funds from the Conservation Fund for a Conservation Easement by the Dover Conservation Commission. Sponsored by Councilor Parks Christenbury, Councilor Raymond Tweedie and Councilor Brenda Whitmore.

Item pulled.

10. Resolution RE: Award of Change Purchase Order for Additional Work – Durham Road Bicycle Shoulder Project. Sponsored by Mayor Alexander G. Nossiff, by Request.

Mayberry moved seconded by Tweedie to adopt. Tweedie has issues with this vendor, why did we not go out to competitive bid. Stancel and Woody tried to answer this. Stancel says the work has been completed just the striping is undone. Their managing consultant, engineer and the City Engineer met on site and it was decided then and there they may have been some missed places on the paving. Tweedie has issues that this was not brought to the council or even to the City Manager for consultation

before spending the taxpayer's money. Woody explained this is another TIP project in the process of 8 projects with a project manager on board, this person made an error and the project could not have been completed without this work. The City Engineer was simply taking care of the City's roadways. Tweedie would like to say no to this as he does not feel we should pay the bill. Woody has contacted NHDOT and the Federal Highway Office and they will be paying us back 80% and the City will have to pay 20% of the \$32,000 bill. Whitmore feels there is no excuse for this action, she does not approve and she will not approve the \$6,000. The Mayor confirms we are only authorizing them to pay the construction company. The City Manager would like to authorize payment and he will take this up with the consultant. Mayberry was going to vote no but if the City Manager will provide this information to them in his next monthly report as he wants assurances from CLD, he will agree. Tweedie wants to defer this to the next meeting and let the City Manager find a solution. We cannot spend taxpayer's money without going through the proper channels; he understands the City Manager does not want to hold out a third party's company money. The Mayor is concerned about holding the construction company hostage in this issue. Christenbury agrees with the Mayor as this will send a horrible message to vendors doing business with the City of Dover. The construction company is entitled to their money. The City Manager asked Stancel what kind of agreement do we have with CLD. Stancel stated we owe the engineering company and we will withhold their payment. The City Manager will take care of the other issue. Motion passes roll call vote of 5-1, Whitmore opposed.

11. Resolution RE: Acceptance of the Action Plan and Expenditures for the Fiscal Year 2003 CDBG Entitlement Funds. Sponsored by Mayor Alex Nossiff, by Request. **(To be referred to Public Hearing on 04/09/03)**

Mayberry moved seconded by Tweedie to refer to a public hearing on April 9, 2003, all in favor.

12. Resolution RE: Employee Suggestion Program. Sponsored by Councilor Parks Christenbury, Councilor Ray Tweedie, Councilor Brenda Whitmore, Councilor Jason Hindle and Councilor Matt Mayberry.

Mayberry moved seconded by Tweedie to suspend rules to introduce this item. Motion passed on roll call vote of 5-0, Keays out of room. Christenbury moved seconded by Tweedie to adopt. Christenbury explained the resolution saying this is a tool to reward city employees that go the extra mile. The City Manager will put together a program to go with this. Tweedie and Mayberry commended Christenbury on his work with this issue, as he has been working along with the City Manager on this. Motion passed on vote of 6-0.

13. Resolution RE: Appointments to the Dover Arts Commission. Sponsored by Councilor Christenbury, Tweedie and Whitmore.

Mayberry moved seconded by Tweedie to suspend the rules to introduce this resolution, motion passed on a roll call vote of 6-0. Mayberry moved seconded by Tweedie to make appointments. Motion passes 5-1, Keays has no answer.

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

#### **D. COUNCIL CORRESPONDENCE**

1. Wetlands Application – Wesley C. Elmer

Mayberry moved seconded by Tweedie to accept and place on file, all in favor.

2. Letter – AT&T Broadband
3. Letter – Comcast

Mayberry moved seconded by Tweedie to accept item 2 and 3 under protest, passed with 5 votes.

**3. Letter – Stabile Companies re: Wildewood Lane**

Mayberry moved seconded by Tweedie to place on file. All in favor.

**4. Motions for Rehearing (Ord. No. 35-2002) – Nancy K. Quinlan**

Mayberry moved seconded by Tweedie on a motion for a rehearing. Motion passed on a roll call vote of 6-0 to rehear this item on the April 9<sup>th</sup> meeting.

**13. COUNCIL MATTERS OF INTEREST**

Whitmore has a question for the City Manager, was item 12B-1 on the indoor pool that was pulled tonight be back at a later date. The City Manager said he would let them know.

Christenbury does not want to use the wording, “ non meeting” when it has to do with legal matters, it should be “exempt from the public”. Also there is interest in the operations of county government for scheduling a work shop for a walk thru of their facilities.

Mayberry stated two items on the county budget will be voted on at 9 am on Saturday, 3/15/03, at the Strafford County Courthouse. He urged everyone to attend this important meeting. On a lighter note he, Whitmore and Tweedie just came from a Medieval Festival at Horne Street School, what a great success this was.

Tweedie has issues on RSA 91a:2 on clarifying their meeting to go back downstairs now. He wonders if there is council consensus to do this. Secondly he wants to have a work shop in the next couple of weeks to discuss all unexpended funds in past CIP’s, he needs details on past projects and how much money is leftover.

The Mayor states on the issue of legal matters we can we do it at 5:30 pm on April 9th in an exempt meeting from Right to Know (RSA 91:a:2...) for legal matters, 6 councilors in favor. The Mayor says the City Manager should report to us in the 30 days on the unexpended funds from all CIP funds, all in favor. Tweedie wants this incorporated into a workshop. Hindle invited fellow councilors to a spaghetti supper at DHS for project graduation, this is where the students have one last non-alcoholic party that is held for the whole graduating class and this is the last time the entire class is together. It has been held at Hampshire Hills in Milford, NH every year for the past two decades or so, he urged the council and community to support this.

**14. ADJOURNMENT**

Tweedie moved seconded by Whitmore to adjourn at 9:05 pm, all in favor.

**Judy Gaouette, City Clerk**