

**MINUTES
SPECIAL MEETING
DOVER CITY COUNCIL
CITY COUNCIL CHAMBERS
TUESDAY
JULY 1, 2003
6:00 PM**

SPECIAL MEETING:

The Mayor called the special meeting to order at 7:05 pm asking for a roll call vote.

1. ROLL CALL

Those present: Mayor Pro Tem Dunnington, Councilors Hindle, Keays, Mayberry, Quigley, Tweedie, Whitmore, Christenbury and Mayor Nossiff. Also present were City Manager Beecher and Attorney Wattendorf.

Christenbury moved seconded by Quigley to suspend the rules to introduce resolution with RSA 49-C:13. Motion passed on a roll call vote of 6-2, Tweedie and Whitmore opposed.

Hindle moved seconded by Quigley and Christenbury to adopt the resolution. Hindle read the resolution. The Mayor asked if there are other remedies short of removal in the resolution. Hindle answered no. The Mayor asked would doing this in any way influence or would we be interfering with any ongoing investigations by the Dover Police Department.

Wattendorf stated the investigation is closed at the County as well as the City level. Nossiff asked then as a result of this hearing could we impose a sanction less than removal.

Christenbury stated if you follow this resolution, you must remove; however any councilor at any time could propose any option, this resolution follows the State law though.

Dunnington stated his understanding is there are other options under Chapter 22 such as fines and sanctions. Christenbury stated yes, but not under this resolution and this is the resolution that has been introduced and seconded for discussion right now.

The Mayor asked about the terms of procedure rules to be established for this type of hearing and are they in place. Wattendorf stated they are along the line of an administrative rehearing.

Nossiff asked for any comments.

Dunnington stated he does not want to presume this is the correct way to go. This would be a quasi judicial quorum. There is a process that must be followed. There is no appearance of fairness here. He does not feel any councilors here can vote without prejudice. He understands the urgency of this matter however is it more important to get it done quickly or right. It needs to be done fairly and with justice being served. The district court is the way. Justice does not happen quickly; it happens with consideration when both sides present their cases fully and completely. This is not the right way, if defeated he will introduce a resolution to get it into court.

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Nossiff hears Dunnington's point; however he asked if it goes to district court, then will it be a violation or a misdemeanor. Wattendorf stated under our Charter, it is a violation. Nossiff says at the most then it is not a criminal matter.

Hindle stated if that is the case after a ruling has been made it still comes back to us for a vote.

Dunnington stated we can't sit as judge and jury and accuser; it can't be fair. We must afford these people their constitutional rights. Nossiff reiterated this.

Christenbury sympathizes with Dunnington's position; however State law has a multitude of tools on how we can address this situation. Dunnington is right some of us prefer to go this way instead of through the court. There is a due process; they can go have a hearing at Superior Court if they do not get a fair hearing here. Some of them feel the gravity of the situation trumps the district court process.

He for one will not handle confidential information until this matter is resolved. The City has come to a stand still. There have been accusations against staff members also there are people in the community that won't do business until this matter is cleared up. With competing harms here this out weighs; we could go to district court however we are just following State law.

Dunnington says the same thing could be said for the Superior Court process. Christenbury feels justice will be served. Nossiff has a question for Wattendorf, how long realistically would it be until we took it up in district court. Wattendorf says around the latter part of August but there is no guarantee it wouldn't be delayed.

Nossiff has a question to Christenbury on rules, he does not feel we can direct them to bring it before the court.

Christenbury stated we could if votes are there to instruct the City Manager to do this.

Nossiff confirmed if this resolution passes then we could instruct the City Manager.

Dunnington moved seconded by Hindle to offer an amendment, he wants to add an option with reference to Chapter 22, Section 12 of the City Code because this gives the council other options.

Whitmore started to state that she is disturbed about what is happening... Christenbury stated point of order your honor, he asked that they abstain from discussion, if not he will put it to the vote of the council as this resolution is about them, her and Tweedie. Nossiff asked if she has a conflict, she said no. Motion passed on a roll call vote of 6-1 to have her not speak, Tweedie abstained and Whitmore voted no. Tweedie stated he has a conflict.

They then voted on Dunnington's amendment regarding adding section 22-12 of the city code to offer options. Motion passed on a hand vote Dunnington, Quigley, and Keays, are for the amendment creating a tie, the Mayor breaks the tie voting in favor making the vote 4-3 in favor.

Dunnington also has a concern with the time frame with the holiday coming right up. He wants at least two weeks for them to prepare themselves for this. Dunnington moved

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seconded by Keays to hold a special meeting on Tuesday, July 22 at 6:00 pm. Motion passed on a 4-3 vote, Dunnington, Mayberry, Keays and Nossiff were in favor of this amendment. Keays asked to have the resolution read with the amendments. Nossiff read the resolution. When they got to the sixth WHEREAS, there was some concern so Mayberry moved seconded by Dunnington to add another amendment at the end of the paragraph adding 'or other appropriate action'. Dunnington, Hindle, Mayberry and Nossiff are in favor of this amendment on a 4-3 vote.

Main motion on resolution 49-C:13 as amended passed on a roll call vote of 4-2, Dunnington and Mayberry opposed while Tweedie and Whitmore abstained.

Dunnington feels it is very important as he cautioned everyone to keep their mouths shut, do not talk to the press or to your constituents, we should not be acting as judges. Do not say any thing.

2. Discussion RE: Police Investigation Report
3. Resolution RE: Possible Violations of Dover City Charter, Administrative Code and Code of Ethics. Sponsored by Councilor Jason Hindle.
4. Other Business
5. Adjourn

Christenbury moved, seconded by Hindle to adjourn at 7:38 pm. All in favor.

Submitted by,

Judy Gaouette
City Clerk