

**MINUTES
SPECIAL MEETING
DOVER CITY COUNCIL
COUNCIL CHAMBERS
October 20, 1999**

1. Roll Call

2. EMERGENCY ORDINANCE #16-10/20/99, Chapter 99, Eating and Drinking Establishments. Sponsored by Mayor Wil Boc, Councilor Otis E. Perry and Councilor Peter Schmidt.

The Mayor opened the meeting and paid a tribute to Bill Wilson. He then asked for a moment of silence in memory of Bill. He then gave a brief history of last week's meeting. He stated we passed a no smoking ban with unintended consequences on places like Smiley's and Dustin's, and River Bend Variety, places he does not consider restaurants but they do have a few tables. It prohibited them from selling cigarettes. He went on to say that Perry had the idea of calling a Special Meeting to address the emergency ordinance that is before us tonight. He would like to implement a six-month hold on the implementation of policies of the ordinance they did pass. He wants to see if he has the votes tonight to delay the implementation for six months. He stated he takes full blame for last week, as he is the one who sets the agenda. In a six-month period of time they will sit down and form a committee, along with the Chamber and decide what other unintended consequences are in this ordinance. However, he still wants a smoking ban in restaurants in Dover.

The City Manager interrupted and asked that a roll call be taken. Councilor Berry, Schmidt, Johnson, Landry, Rawding, Reese, and Mayor Boc were present. Mayor Pro-Tem Perry was absent.

Reese moved, seconded by Boc and Rawding, to bring the emergency ordinance on the floor for discussion.

The City Manager asked if they are going to vote on the motion to bring it onto the floor. Also are they voting on the original ordinance or the one on the agenda?

The Mayor stated only the one on the agenda.

Landry stated there is only one answer to this with regard to whether the original ordinance can be brought back tonight.

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The City Manager stated he has not read Robert's Rules lately. However the Mayor stated he had about an hour ago. He stated we drafted an emergency ordinance, and that is the motion but he wants to amend it. He is in hopes of proposing an amendment to the emergency ordinance that will amend the implementation of the ordinance passed last Wednesday so it will have a six-month delay.

Rawding understands but he does not agree.

Johnson stated the question is, did the last meeting adjourn? He assumes a motion to rescind this ordinance could be on the table within a six-month period. The Mayor states it would have to go to another Public Hearing and back before us like other ordinances.

Rawding asked what is before us? Is this just a piece of the original ordinance or what? He asks if this will prevent them from bringing the original ordinance back in the future.

The Mayor says you can't bring it back tonight. Rawding stated now that that is clear, what exactly are we amending. He asked Reese what his motion includes.

Reese stated that last week he had intended that this ordinance should be shelved for six months while the bugs were worked out. He felt that there were issues and he was right. The whole ordinance should be put on hiatus for six months.

Rawding states we're in a can of worms right now. These business livelihoods are on the line. These people have a right to know what is going on in this city government. We just passed an ordinance that was massively flawed, that is why he voted against it. Rawding wants to be sure the whole ordinance is on hold for six months so we can talk to businesses in the community.

Berry asked for the minutes of last week.

Boc stated he does not need the minutes, he remembers it vividly, he stated that Reese had made a motion to delay it for six months, and all we did was suspend two provisions, not the whole ordinance. At that point the City Manager had stated that a 90-day delay is already in there. We just needed to amend it to 180 days. The Mayor states let the record show the City Manager takes the blame for last week.

Johnson asks for a point of order, he feels it would be a lot cleaner to rescind the ordinance, work on it until you are happy with it, then resubmit it but work on it quickly.

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The Mayor has a motion on the table.

The City Manager asks if this is a meeting?

Landry asks for a clarification, if you suspend the rules; can you act on an existing ordinance?

Berry is tired and is going home if they are not going to discuss the emergency ordinance.

Landry still wants to know if a motion is brought to suspend the rules, can we suspend the rules to act on an ordinance?

Reese does not want to confuse the issue but this emergency ordinance can only be passed for 60 days.

The Mayor says an emergency ordinance can only be for 60 days but in the 60 days, before this runs out, it can be brought back before the council; that is your motion. We will come back in the next meeting and make it six months. Procedurally if you want to make it for six months, that is fine, you are making an amendment that lasts for six months from the date of the last meeting.

The Mayor wants to send a little comfort level to the people in the audience. The mayor's motion is an amendment to delay the ordinance for six months. The date of the entire Eating and Drinking Ordinance will have an implementation date of six months from last Wednesday.

Rawding feels the best course of action is that we should rescind this and start from a clean slate. He states we should defeat the proposed amendment and make a motion that is workable for the entire city.

Johnson mostly agrees with Rawding but he feels the logical thing to do is approve it for six months without construing the elements of original ordinance. An emergency ordinance to rescind for 60 days does not make sense. At the November meeting, we should vote to rescind it and then have it go to a public hearing.

The amendment is on the floor and now seconded by Reese.

Landry agrees with Johnson and Rawding to rescind. He asks if we can only do this for 60 days, and is the 6 months a feel better thing? At this point Landry made another motion to amend the 6-month delay to 60 days, seconded by Schmidt. Motion fails on a 3-4 vote Schmidt, Johnson and Landry in favor. Berry, Rawding, Reese and the Mayor opposed.

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The Mayor stated now the motion on the floor is to delay it for 6 months. This passed on a Roll Call vote of 6-1, Johnson opposed.

Boc moved, seconded by Reese, to suspend the rules to allow a citizen's forum for people to address the council for 5 minutes. Motion passed on a Roll Call vote of 6-1, Landry opposed.

Peter Allen of Strafford Farms Restaurant states there are two reasons they should rescind this resolution. Number one, restaurant owners had no knowledge of the ordinance and, number two, it is so flawed, as previously stated. They were blindsided and violated. He had asked Fosters for all the articles in the last year. He stated people's livelihoods are on the line. He does feel Henry Baker, the health inspector, did not do what he said he would do. The restaurants found out on Columbus Day that bars were also included in this ordinance. He does not feel the City Council did their job last week.

Albert Wheat of Charlotte's Copper Kettle states he serves no alcohol at his place. No one came to him about this ordinance. He does not feel it is healthy for his children to smoke. He also feels he was blindsided and that people have a right to choose. He's appalled at this. He also stated people are allowed to smoke in his restaurant.

Rick Laughton is the owner of Daniel's Restaurant and he agrees with Peter Allen. He works full-time and does his best to run a business in the downtown also. He is also in support of Charlotte's Copper Kettle's basic principle. He feels we all have basic rights.

Dr. Marc Hiller of the Board of Health responded to these comments. He wants the City Council to review the scientific reports in support of this ordinance. We only need to look at the data. Scientists that have conducted studies show that there would be a zero to 8-10% negative effect on their revenues. He stated finally, with regards to people's rights, 8 out of 10 people in the US do not smoke, that means 80% of the population does not engage in smoking.

Karen Mairs of the Barn Tavern. She asked Dr. Hiller if he could guarantee her business wouldn't fail. She is afraid of purchasing a new truck, as she doesn't feel she will be able to make the payments.

Joe Reeves of Who's on First only wants fair play. He wants to see the ordinance rescinded. He feels they are picking on Dover.

Seeing no one else wishing to speak, the Mayor closed citizen's forum.

3. City Manager's Report

The City Manager stated he wanted to remind everyone about hiring Dick Bennett for helping in the process of recruiting a Community Services Director (\$15,200), and relative to hiring the Strafford Regional Planning Commission in the amount of \$15,000 for the Transportation Section of the Master Plan. He stated, they were not formally RFP'd for the \$15,000.

Berry moved to accept, seconded by Reese.

The cost for the SRPC is \$15,000 and both are in the budget.

Landry had a question on the cash flow memo. This was regarding the State school funding issue.

The City Manager stated there is not enough money to run the City until the end of the year. The Department of Revenue could not verify our tax rate. We might be able to bill in arrears as we have in the past.

Landry asked what happened in Concord on Friday.

The City Manager says we have not received anything from the State.

Berry says we have received two small payments so far.

Reese stated it's not just us; it's all the cities and towns in the State.

All in favor of the City Manager's Report. Motion passed unanimously.

4. Mayor's Report

The Mayor reported that Walter Colby had been appointed to the Skyhaven Airport Commission.

The City Manager also stated he is pleased to announce that Earle Goodwin will be awarded Citizen of the Year at NHMA this year. He went on to say Earle was chosen from many notable people from around the State.

Also by accepting the Mayor's report, they will be approving the raffle for Bell Center for Music and the Arts, Inc.

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Reese moved, seconded by Rawding to accept the Mayor's report. The vote was unanimous.

5. Other Business

Landry reminded everyone that Household Hazardous Waste day is this Saturday, October 23rd and also that leaf bags are now available at various stores listed in the Community Notes brochure.

6. Adjournment

Berry motioned to adjourn seconded by all and all councilors were in favor.

Judy Gaouette
CITY CLERK