



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, June 22, 2011**
Meeting Time: **7:00pm**

1. CALL TO ORDER

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

Councilor Weston led the Pledge of Allegiance.

4. ROLL CALL ATTENDANCE

Present: Mayor Myers, Deputy Mayor Trefethen, Councilor Carrier, Councilor Cheney, Councilor Cruikshank, Councilor Hooper, Councilor Nedelka and Councilor Weston.

Absent: Councilor Garrison.

Also present: City Manager Joyal, General Legal Counsel, and City Clerk Lavertu.

5. PROCLAMATIONS/AWARDS – None

6. APPROVAL OF AGENDA

Deputy Mayor Trefethen moved to add B11053 Property and Liability Insurance as Item 13.A.17.; seconded by Councilor Nedelka.

Vote: 7/1; Passed. Councilor Cheney was opposed.

Councilor Nedelka moved to approve the Agenda as amended; seconded by Councilor Cruikshank.

Vote: 8/0.

7. PUBLIC HEARINGS – None

8. CITIZEN'S FORUM

Citizens are invited to speak on any issue pertaining to the business of the City of Dover. Statements shall be limited to five minutes.

Ronald Huml, 199 Mast Road: He spoke about the tax cap and the tax cap amendment resolution.

Raymond Bardwell, 199 Spur Road: He spoke about the project to move the pedestrian bridge to One Washington Center.

Edward Bleiler, 28 Isaac Lucas Circle: He read his statement to the Council.

David Scott, 220 Back Road: He spoke about the tax cap and his lawsuit against the City.



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Donald Medbery, 3 Covered Bridge Lane: He thanked Mr. Bardwell and Mr. Bleiler for their work on saving the pedestrian bridge. He referred the Foster's Daily Democrat article regarding Ms. Segee's death and her inability to get help because the emergency cord in her unit was broken. He said Dover is not part of Boston and the City shouldn't be using the Boston market in calculating pay scales. He also spoke about the City thinking they are above the law and changing the Charter.

Attorney Christopher Buck, 28B Lincoln Street: He said he was the attorney for the Plaintiffs who filed suit against the City. He spoke about the tax cap and making amendments to the Charter.

Jamie Stevens, 39 Spruce Lane, AFSCME Union President: He urged the Council to approve the AFSCME employee contract.

Richard Hebbard, 97 Spruce Lane: He apologized to the Council for his misleading comments made at the last Council meeting. He spoke about Officer Carey Beaulieu not lying to him on two separate occasions, but just once regarding a construction situation in the neighborhood. He said Officer Martinelli lied to him about speaking with the Zoning Administrator. He said police officers are allowed to lie in an investigation, but not in reports or under oath. He said these officers taint the name of the other good officers in the City. He spoke about the Teen Center officer being a man of integrity, and listed several others.

Mary Hebbard, 97 Spruce Lane: She spoke about the dirty cops tainting the good name of the good officers. She spoke about Officer Marn Speidel and Officer Bill Malsbury, and discussed the trumped up charge brought against her husband for driving through an intersection during a road race.

Patricia Wulfson, 5 Rainbow Drive: She asked to yield her time to Mrs. Hebbard.

Mayor Myers asked the Council for a vote to allow Ms. Wulfson to yield her time to Mrs. Hebbard.
Vote: 4/4; Failed.

Patricia Wulfson, 5 Rainbow Drive: She said she was at the trial and she agreed with Mrs. Hebbard's comments.

9. CITY MANAGER'S REPORT

He said his written report has been submitted. He spoke about the progress of the crew doing short-line striping throughout the City, and current paving activities. He spoke about the new City Hall hours, Monday through Thursday, 8:30 to 5:30, and closed on Fridays. He said this will go into effect on July 11, 2011

Vote: 8/0.



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10. APPROVAL OF MINUTES

- A. **June 1, 2011 – Workshop session**
- B. **June 1, 2011 – Special Meeting**
- C. **June 8, 2011 – Regular Session**

Deputy Mayor Trefethen moved for their approval; seconded by Councilor Hooper. Councilor Weston referred to the June 8, 2011 minutes, and moved to show the sponsor as Councilor Weston, instead of Mayor Myers, on the Ordinance: 166-38 Vehicles and Traffic, Unlawful Acts; Separate Violations, Subsection C, in both Item 7.2 and Item 13.C.2.; seconded by Councilor Hooper.

Vote: 8/0.

Councilor Nedelka moved to accept the Minutes as amended; seconded by Councilor Weston.

Vote: 8/0.

11. MAYOR'S REPORT

Mayor Myers said he testified at the Town of Exeter's public hearing regarding the Memorandum of Understanding with the EPA. He attended the Municipal Advisory Committee meeting. He attended two meetings with the Redistricting Committee to discuss the alignment of the six wards in the City. He did several ribbon cuttings for the Greater Dover Chamber of Commerce. He thanked the Elks Lodge for hosting the Flag Day celebration. He attended the Dover High School graduation. He attended the change of command ceremony at the Naval Yard.

12. UNFINISHED BUSINESS

- A. **ORDINANCES IN THE 2nd READING – None**
- B. **ORDINANCES IN THE 3rd READING – None**
- C. **RESOLUTIONS – None**

13. NEW BUSINESS

A. **CONSENT CALENDAR**

1. **TAG – Prime Time AllStar Boosters**
2. **FIREWORKS – Greater Dover Chamber of Commerce**
3. **BLOCK PARTY – Greater Dover Chamber of Commerce**
4. **RAFFLE – Greater Dover Chamber of Commerce**
5. **RESOLUTION: B11078 BITUMINOUS CONCRETE / ASPHALT TO BE PICKED UP SPONSORED BY MAYOR MYERS BY REQUEST**



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6. **RESOLUTION : B10089 HOT BITUMINOUS PAVING (ASPHALT) ADDITIONAL SCOPE OF SERVICES**
SPONSORED BY MAYOR MYERS BY REQUEST
7. **RESOLUTION: B11047 TELECOMMUNICATIONS SERVICES AWARD OF BID**
SPONSORED BY MAYOR MYERS BY REQUEST
8. **RESOLUTION: B11073 DOVER DRAW STRING TRASH BAGS AWARD OF BID**
SPONSORED BY MAYOR MYERS BY REQUEST
9. **RESOLUTION: B11081 VARIOUS CHEMICALS FOR REC AND CS DEPARTMENTS AWARD OF BID**
SPONSORED BY MAYOR MYERS BY REQUEST
10. **RESOLUTION: B11083 TREE REMOVAL SERVICES AWARD OF BID**
SPONSORED BY MAYOR MYERS BY REQUEST
11. **RESOLUTION: B11084 SPECIALIZED MUNICIPAL LEGAL SERVICES AWARD OF BID**
SPONSORED BY MAYOR MYERS BY REQUEST
12. **RESOLUTION: B11089 SIDEWALK TIPDOWNS 2011 AWARD OF BID**
SPONSORED BY MAYOR MYERS BY REQUEST
13. **RESOLUTION: HIGHWAY ROAD SALT STATE NH CONTRACT**
SPONSORED BY MAYOR MYERS BY REQUEST
14. **RESOLUTION: SEGTEL AGREEMENT FOR CORE INTERNET UPLINK, IP & DNS MANAGEMENT SERVICES**
SPONSORED BY MAYOR MYERS BY REQUEST
15. **RESOLUTION: DEPARTMENT OF HEALTH AND HUMAN SERVICES MCCONNELL CENTER LEASE AMENDMENT**
SPONSORED BY MAYOR MYERS BY REQUEST
16. **RESOLUTION: OPERATING RULES FOR LIBRARY, ARENA, POOL, MCCONNELL CENTER, RECREATION AND TRANSPORTATION ADVISORY BOARDS**
SPONSORED BY MAYOR MYERS BY REQUEST
17. **RESOLUTION: B11053 PROPERTY AND LIABILITY INSURANCE**
SPONSORED BY MAYOR MYERS BY REQUEST



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COMMITTEE REPORTS

1. School Board
2. Planning Board
3. Appointments Committee
4. Recreation Advisory Board
5. McConnell Center Advisory Committee
6. Arts Commission
7. Solid Waste Advisory Commission
8. Transportation Advisory Commission
9. Joint Building Committee – Horne Street
10. Joint Building Committee – Media Access
11. Legislative Liaison
12. Pool Advisory Committee
13. Parking Commission

Deputy Mayor Trefethen moved to accept the Consent Calendar; seconded by Councilor Nedelka. Mayor Myers asked the Council if they had items they would like pulled for further discussion. Councilor Nedelka asked to pull Items 13.A.5., 13.A.6., 13.A.14., and 13.A.16. Councilor Hooper asked to pull the School Board Report. Councilor Cheney asked to pull Items 13.A.7., 13.A.11., 13.A.13., and 13.A.15. Mayor Myers asked to pull item 13.A.17. Mayor Myers asked for a roll call vote on the remaining items of the Consent Calendar. Roll Call Vote: 8/0.

Deputy Mayor Trefethen moved to adopt Item 13.A.5.; seconded by Councilor Nedelka. Councilor Nedelka asked why only two bids came in on this project. City Manager Joyal said only a few companies provide bituminous concrete. Roll Call Vote: 8/0.

Deputy Mayor Trefethen moved to adopt Item 13.A.6.; seconded by Councilor Nedelka. Councilor Nedelka gave an overview on why the City was expanding this contract, and said it was best for the City. Roll Call Vote: 8/0.

Deputy Mayor Trefethen moved to adopt Item 13.A.7.; seconded by Councilor Cheney. Councilor Cheney asked why it was a five-year contract. City Manager Joyal said it involved a complete switchover to the Voiceover IP network and a significant capital investment. He said the companies will want a long-term commitment to recoup their investment. Councilor Nedelka spoke about the City recommending BayRing even though they weren't the lowest bidder. Information Technology Director Annie Dove said BayRing doesn't have the capital costs that the other companies had. She said they would just have to upgrade some switches to support the Voiceover IP solutions. Roll Call Vote: 8/0.

Deputy Mayor Trefethen moved to adopt Item 13.A.11.; seconded by Councilor Cheney. Councilor Cheney said she asked for this to be pulled so she could vote against it. Roll Call Vote: 7/1; Passed. Councilor Cheney was opposed.



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Deputy Mayor Trefethen moved to adopt Item 13.A.13.; seconded by Councilor Cheney. Councilor Cheney said even though the City didn't go out for bids on this and just going with the State contract she would be supporting this resolution.
Roll Call Vote: 8/0; Passed.

Deputy Mayor Trefethen moved to adopt Item 13.A.14.; seconded by Councilor Nedelka. Councilor Nedelka asked why the City needed the additional bandwidth. City Manager Joyal said there was a whole bunch of reasons why it was needed. He said it was the main internet connection for the City.
Roll Call Vote: 8/0.

Deputy Mayor Trefethen moved to adopt Item 13.A.15.; seconded by Councilor Cheney. Councilor Cheney asked if the lease agreement covered the City's expenses. Recreation Director Bannon said it covered expenses.
Roll Call Vote: 8/0.

Deputy Mayor Trefethen moved to adopt Item 13.A.16.; seconded by Councilor Nedelka. Councilor Nedelka if the rules take effect on the Council's adoption. General Legal Counsel Krans said generally they would. Councilor Cheney said she would be voting against these rules.
Roll Call Vote: 7/1; Passed. Councilor Cheney was opposed.

Deputy Mayor Trefethen moved to adopt Item 13.A.17.; seconded by Councilor Cheney. Mayor Myers recused himself from the vote. Councilor Cheney spoke about the Local Government Center's (LGC) legal matters and the money that is owed to the cities and town. She said she wouldn't be supporting this resolution. Councilor Nedelka said he was concerned with the costs, and asked for more information why LGC was recommended. City Manager Joyal said it was just for property and liability insurance. He said they only received two bids that would work for the City; Primex and Property Liability Trust. He said they have been consistently covered by Property Liability Trust. He said the coverage was not apples to apples, with certain exclusions with the Primex coverage that the City depends on. He said the staff felt it was more cost efficient to stay with Property Liability Trust.
Roll Call Vote: 7/1; Passed. Councilor Cheney was opposed.

Councilor Hooper gave an overview on her School Board Report to the Council. Councilor Nedelka referred to the Citizen's Forum comment that the School was laying off 37 people. Councilor Hooper said she has not heard that number. Councilor Weston moved to accept the School Board Report; seconded by Councilor Cheney.
Vote: 8/0.



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B. RESOLUTIONS

1. TAX CAP CHARTER AMENDMENT

SPONSORED BY COUNCILORS CARRIER AND CRUIKSHANK

Councilor Carrier moved for its adoption; seconded by Councilor Cruikshank. General Legal Counsel Krans gave background information on this Resolution. Councilor Nedelka asked what would happen if the Council tabled this Resolution for a couple of weeks. General Legal Counsel Krans said Attorney General's office wants the Charter questions no sooner than July 11th. Councilor Weston asked the General Legal Counsel to clarify the differences between this Charter amendment and the one that the City has now. General Legal Counsel Krans said they are both based on inflation, but it's calculated on the Boston region inflation rate, instead of national inflation rate. It's also changes to a three-year average on the inflation rate, instead of a one-year average. He said they also added the exclusions that don't exist in the existing **tap cap language**. He said there is no provision in limiting the proposed budget by the Superintendent and City Manager, because the **new State law** does not allow that. Councilor Cheney asked why this was coming before the Council when the City already has a tax cap. General Legal Counsel Krans said this was the Council making the decision that this needed to be brought before the citizens on a ballot as a Charter question. He said the language change why trying to make the tax cap more lawful and he felt it would approve by State officials. Councilor Cheney said the Supreme Court ruling for another City should not affect Dover. General Legal Counsel Krans said the City's current Charter would be turned down today, because he felt there were provisions in it that were unlawful. He said this new language tracks the new legislation. Councilor Weston referred to the ruling at the State that said there is a tax cap in the City, and asked if it affects the budget that the Council just passed. She asked what would happen if the Charter amendment failed in November. General Legal Counsel Krans said they would still have the original tax cap. He said it would not affect the budget the Council passed. Deputy Mayor Trefethen asked if the Council takes the first to have it reviewed, and asked if it could be amended afterwards. General Legal Counsel Krans said the State is looking to see if it follows the law, and they would just inform the State of any changes. Councilor Cheney asked the General Legal Counsel if he expected the Council to vote on this tonight without a public hearing. General Legal Counsel Krans said he did recommend the Council vote on this tonight. He said the time for a public hearing will be in August. Councilor Cruikshank moved to substitute as a whole this Resolution; seconded by Councilor Carrier.

Vote: 7/1; Passed. Councilor Cheney was opposed.



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General Legal Counsel Krans said the difference between this Resolution and the original one is the language that there is an existing tax cap in Dover's Charter, and this question would replace it. He said a majority vote in November for this question would replace the existing language.

Councilor Cruikshank said she understood that the State's Supreme Court ruling on the tax cap would apply to the whole state, and not just Manchester. She doesn't see any problem with moving this forward and having it look at by the Attorney General.

Councilor Carrier gave background information on the original tax cap. He said he wants everyone to understand it. He read the Resolution into the record. He said they were trying to be proactive to make sure it's legal and blessed by the State's legislature.

Councilor Hooper said she felt the people needed to hear this again after living it with for four years.

Councilor Cheney said she would not be supporting this resolution.

Deputy Mayor Trefethen said he would be supporting this resolution, because it sends it off to get approved by the State. He said the Council has followed the tax cap, because the tax caps allows for a 2/3 vote to override the tax cap. The vote was 8/1. He spoke about the Charter containing the language that if part of the Charter is determined to be illegal then the rest of it remains in force. He said this was common language in any contract.

Councilor Nedelka said the new language make the Charter clearer. He moved to amend the Resolution, recommended language change, paragraph A, "preceeding the budget years stated in the Consumer Price Index – Boston..." He would insert "U", as in urban, after the hyphen; seconded by Councilor Carrier.

Deputy Mayor Trefethen said he preferred to the stay with the national CPU, and would not support this amendment.

Mayor Myers said he wanted to wait on amendments until they have a workshop on this and discuss it. He just wanted it to go before the Attorney General's office at this point.

Vote: 1/7; Failed. Councilor Nedelka voted in favor.

Councilor Nedelka moved to amend the Resolution, recommended language change, introductory paragraph, "capital reserve funds, grants, county tax, and revenues..." He moved to insert ", State property tax"; seconded by Councilor Cheney.

Councilor Cheney said she did feel that the State tax should be excluded too. She said she just didn't feel that the City needed to rush this issue.

Deputy Mayor Trefethen asked why it wasn't mentioned.

General Legal Counsel said the county tax was mentioned because it was a hot issue last time. He recommended that it be put in there if the Council is considering it, so that it will be reviewed.

City Manager Joyal said he agreed with General Legal Counsel, but felt that it needed to be reviewed. He wasn't sure it would be beneficial to the taxpayers or the School's budget.

Vote: 8/0.

Councilor Cruikshank said she wants this to go forward so the public can see what is being presented and ask questions.

Councilor Weston asked about the lawsuit and if there was any implications with voting on this resolution.



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General Legal Counsel said one objective of the lawsuit was to seek an ex parte order from the Superior Court to prevent the Council from voting on this question tonight, and that was denied yesterday afternoon. He said the case is not expected to be heard until September or October.

Roll Call Vote: 7/1; Passed. Councilor Cheney was opposed.

1. REDISTRICTING CHARTER AMENDMENT SPONSORED BY DEPUTY MAYOR TREFETHEN

Deputy Mayor Trefethen moved for its approval; seconded by Councilor Nedelka. Deputy Mayor Trefethen gave background information on this resolution to the Council. Planning Director Chris Parker explained the process for redistricting the wards, and he discussed the process for having this amendment go on the ballot in November. He said it would not go into effect until June, 2012. He explained the proposed changes in Wards to the Council.

Councilor Cheney said the people need a public hearing, because this was probably the first time citizens have heard about this issue. She made a motion to table resolution for two weeks. There was no second.

Roll Call Vote: 7/1; Passed. Councilor Cheney was opposed.

2. AUTHORIZATION TO COMMIT FUNDS TO THE NUTRIENT CRITERIA, GREAT BAY ESTUARY COALITION SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved for its approval; seconded by Councilor Weston.

Mayor Myers gave background information on this Resolution to the Council.

Roll Call Vote: 8/0.

3. COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF DOVER AND DMEA SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved for its approval; seconded by Councilor Cheney.

Roll Call Vote: 8/0.

Mayor Myers went over the changes to the contract with the Council.

4. COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF DOVER AND DPA SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved for its approval; seconded by Councilor Cheney.

Roll Call Vote: 8/0.

Mayor Myers went over the changes to the contract with the Council.



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**5. COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF DOVER AND
DPAII**
SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved for its approval; seconded by Councilor Cheney.
Roll Call Vote: 8/0.
Mayor Myers went over the changes to the contract with the Council.

**6. COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF DOVER AND
AFSCME**
SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved for its approval; seconded by Councilor Cheney.
Roll Call Vote: 8/0.
Mayor Myers went over the changes to the contract with the Council.

**7. COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF DOVER AND
DPEA**
SPONSORED BY MAYOR MYERS BY REQUEST

Deputy Mayor Trefethen moved for its approval; seconded by Councilor Cheney.
Roll Call Vote: 8/0.
Mayor Myers went over the changes to the contract with the Council.

C. ORDINANCES IN 1ST READING – None

14. COUNCIL CORRESPONDENCE – None

15. COUNCIL MATTERS OF INTEREST

Councilor Carrier congratulated Wayne Chick for 50 years of service at Foster's Daily Democrat.
Councilor Cheney congratulated her son for becoming an Eagle Scout.
Mayor Myers spoke about selling his business and his interest in government, and announced that he accepted a position as City Manager for Laconia.

16. ADJOURNMENT

Deputy Mayor Trefethen moved to adjourn; seconded by Councilor Weston.
Vote: 8/0.