



CITY OF DOVER

CITY COUNCIL - AGENDA

Meeting Type: **Regular Meeting**
Meeting Location: **Council Chambers, City Hall**
Meeting Date: **Wednesday, January 25, 2012**
Meeting Time: **To immediately follow Workshop Session**

1. CALL TO ORDER

2. ~~MOMENT OF SILENCE~~ - (will be held during Workshop Session)

3. ~~PLEDGE OF ALLEGIANCE~~ - (will be held during Workshop Session)

4. ROLL CALL ATTENDANCE

5. PROCLAMATIONS/AWARDS - None

6. APPROVAL OF AGENDA

7. PUBLIC HEARINGS

A. APPROPRIATION FOR FY2013 CAPITAL IMPROVEMENTS PROGRAM - WATER MAIN COURT STREET NON-DEBT FINANCED PROJECT (REQUIRES A 2/3 MAJORITY VOTE)

SPONSORED BY DEPUTY MAYOR CARRIER AND COUNCILOR GARRISON

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.

9. CITY MANAGER'S REPORT

10. APPROVAL OF MINUTES

A. January 2, 2012 - Organizational Meeting

B. January 4, 2012 - Organizational Meeting

C. January 11, 2012 - Regular Session

11. MAYOR'S REPORT

12. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2nd READING - None

B. ORDINANCES IN THE 3rd READING - None

C. RESOLUTIONS

1. APPROPRIATION FOR FY2013 CAPITAL IMPROVEMENTS PROGRAM - WATER MAIN COURT STREET NON-DEBT FINANCED PROJECT (REQUIRES A 2/3 MAJORITY VOTE)

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13. NEW BUSINESS

A. CONSENT CALENDAR

1. RAFFLE – The Children’s Museum of New Hampshire

COMMITTEE REPORTS

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

B. RESOLUTIONS

- 1. AUTHENTICATION OF THE CITY CHARTER**
SPONSORED BY MAYOR TREFETHEN BY REQUEST
- 2. CITY COUNCILOR WEB PAGE ACCESS**
SPONSORED BY COUNCILOR CRAGO
- 3. VIDEO OF GOAL SETTING SESSION**
SPONSORED BY COUNCILOR CHENEY
- 4. LETTER TO LEGISLATIVE DELEGATION REGARDING REDISTRICTING**
SPONSORED BY COUNCILOR GARRISON
- 5. LETTER TO LEGISLATIVE DELEGATION REGARDING POLE TAX**
SPONSORED BY COUNCILOR GARRISON

C. ORDINANCES IN 1ST READING

- 1. UPDATING THE DOVER ZONING ORDINANCE**
(TO BE REFERRED TO A PUBLIC HEARING ON FEBRUARY 8, 2012)
SPONSORED BY MAYOR TREFETHEN AS PLANNING BOARD REPRESENTATIVE

14. COUNCIL CORRESPONDENCE

15. COUNCIL MATTERS OF INTEREST

16. ADJOURNMENT

CITY MANAGER'S REPORT



January 25, 2012

SUBMITTED BY:

**J. MICHAEL JOYAL, JR.
CITY MANAGER**

**CITY OF
DOVER, NH**

AVAILABLE ONLINE:

WWW.DOVER.NH.GOV

Dover Business & Industrial Development Authority Economic Development Overview for December 2011

Dan Barufaldi

Overview

Business contacts in the region continue to see short term demand growth, but many are reducing their longer term outlooks. Contacted retailers' year-over-year percentage sales changes for the Christmas shopping period range from high single-digit to high double digit increases versus the previous year. The Dover BUY LOCAL campaign appears to have been successful and effective. Responses from manufacturers are mixed, but most continue to report some growth short term with less confidence in the longer term. Advertising and consulting firms generally cite strong results for the Christmas season and political primaries, but note a slowdown in backlog pace over the next few months after the holidays. Commercial real estate markets remain soft. Net hiring has increased, but it is unknown how much is seasonal and how much is permanent. Contacts see slow but continued hiring going forward. Price pressures continue to ease; some commodity prices are down and many firms are holding their own prices steady. Contacts in several sectors continue to cite uncertainty in the housing markets, hiring outlook and government reforms in healthcare and other benefit costs as a key factor restraining demand.

Retail & Tourism

Retailers contacted in late November and December provide mixed messages about sales trends that appear up seasonally in the short term with many expressing doubts for the next quarter, and many note they are having a difficult time gauging their current circumstances. In Dover, this is particularly true of those selling discretionary rather than necessity type goods. Sales range from being flat to up 10%, with several being in the "generally flat middle" One big ticket retailer saw sales steadily moving up over the last few weeks, although he cautions that a few weeks do not constitute a trend. Another retailer notes that sales have been up and down, on both a daily and a weekly basis, and attributes this volatility to consumer sentiment rising and falling with positive and negative news on the domestic and global economies. Dover furniture sales are reportedly up marginally as are apparel sales. Contacts are uncertain about what to expect beyond the 2011 holiday sales season. Firms say they are budgeting about 2.5% wage increases for 2012, are hiring selectively, and are not planning layoffs at this time.

The travel and tourism sector is reporting some strength despite the declining global economic climate. Dover contacts indicate a relatively strong U.S. dollar versus the weakening Euro is the reason. Within the sector, leisure travel is slowing while domestic and international business travel continues at 5%-7% higher than in 2010. November growth slowed to 3% from the 5% to 7% year-over year gains seen earlier in 2011. Advance hotel bookings for 2012: Q1 are up regionally; not so much in Dover. The industry is expecting positive but slower growth in 2012. Local travel to Florida is up in general as is seasonal travel to Disney World.

Manufacturing and Related Services

Business conditions at contacted manufacturers are mixed with most continuing to report revenue growth. Many Dover DOD connected manufacturers are experiencing a fall off in orders. Several

Dover non-DOD manufacturers in medical devices and cashier systems continue to grow sales significantly. The majority report that they are less optimistic about prospects in 2012 than when they last responded. Demand declined in aerospace components as well as in semi-conductors and industrial products. Automotive year-end sales growth remains positive. Instrument manufacturers and business services were slow while entertainment products were up seasonally year over year. Demand was noticeably slower than in previous quarters at a business products firm and at one dependent on the residential investment sector.

With two notable exceptions, hiring at local manufacturers is generally limited to replacing departing workers. Orders for IT and other manufactured products from China have dropped sharply. Sectors experiencing order declines are freezing or reducing workforce. These firms are looking at reducing healthcare benefits and/or shifting more of these costs to workers.

There are fewer reports of upward price pressures from manufacturers even though some food related commodities remain high. Critical metals and oil prices are lower in the last month due to the Chinese economic slowdown as their government seeks to cool the Chinese real estate market bubble. Firms using these commodities are not as yet passing these price reductions along as they fear volatility in the short term could reduce their margins. Some price deals are being offered on discretionary products to avoid loss of sales to lower priced competitors.

Despite the soft and volatile economic conditions, some manufacturers continue to invest in productivity, improving capital equipment and in company acquisitions. Further investment is curtailed by an uncertainty about future conditions rather than a lack of capital.

Selected Business Services

Consulting and advertising contacts reported generally strong business conditions, as firms attempt to boost sales and productivity though not as robust as three months ago. Some of this is interpreted as “year-end” effect. Service purchases are being tied to those products that contribute directly to the bottom line such as sales and process efficiency.

Economic consulting firms focusing on litigation are up 20%. Healthcare consulting is growing at only 2% due to weakness in the pharmaceutical sector in the U.S. and the uncertainty about the potential 27% cut in federal Medicare subsidies for physicians’ services.

Contacts with local consultants indicate they are raising prices 3%-5% to cover costs and maintain margins. Hiring is mixed, but is expected to be restrained or flat for the foreseeable future. For the most part, contacts have revised expectations downward since mid-year due to the pessimistic economic indicators and worldwide economic uncertainty. Financial Services Consulting is expected to remain strong to continue to deal with the aftermath of the financial crisis and the regulatory overhaul.

Commercial Real Estate

Reports from this sector are a mix of good and bad news. Office space absorption is improving but the long term outlook has turned more pessimistic with the perceived increase in the national and global risks to growth. Dover rehabbed lease space continues to fill up and as it does, the frequency of new build activity is increasing. The problem of obtaining bank financing for new projects in Dover remains problematic, but is showing some signs of improvement. The uncertainty around medical insurance, healthcare reform, and Medicaid/Medicare program payment schedules contributes to Dover’s “medical mile” leased space vacancies around WDH.

Residential Real estate

The Dover residential market remains weak with the expiration of the tax credit last year. The median sale prices of homes in Dover has increased slightly in the last three months while nationally, the median home sale prices continue a gradual decline, varying significantly by location. Job insecurity and a lack of available mortgage financing appear to be the major causes. Some home purchases are being made to acquire rental property as the rental prices continue to climb with demand. It is expected that residential sales will remain relatively weak for the next one to two years.

Unemployment Rates

Dover: 4.1%
Rochester: 5.2%
Somersworth: 5.1%
Portsmouth: 4.1%
New Hampshire: 4.9%
New England: 7.4%
United States: 8.6%

Non-local content excerpted from the Federal Reserve Beige Book-Boston

Office of General Legal Counsel Summary of Matters Allan Krans

GENERAL SUMMARY OF MATTERS OF THE OFFICE OF GENERAL LEGAL COUNSEL

The Office of General Legal Counsel provides legal support to City Council, City Manager, city staff and volunteers on the boards, commissions and committees of the City of Dover to assist efforts to provide services to constituents/customers. In addition, legal support is provided to the Dover School Board, the Superintendent of Schools and school staff.

Legal support levels are tracked. The tracking of legal support efforts revolves around legal services called "Matters" (legal questions and issues raised by staff and all other sources), litigation, legal documents (contracts, deeds etc.), resolutions, and responses to Right to Know requests.

REVIEW OF THE VOLUME OF CALLS FOR LEGAL SUPPORT SERVICES FOR THE CALENDAR YEAR 2011:

- Matters (313) increased 30% over 2010.
- Document reviews(152) increased 47% over 2010.
- Right to Know requests(51) decreased 10%.
- Resolutions (60)(first year of tracking).

SIGNIFICANT DEVELOPMENTS, TRENDS AND MATTERS

- An increase in the request for legal services from the Schools has been experienced including consultations regarding a Joint Building Committee, school policies, Right to Know, contracts, leases, purchasing and an application for non-profit status.
- In-house Codification of the City ordinances in conjunction with the City Clerk and Planning Department was achieved.
- Charter amendment.
- Increase in activities involving public-private partnerships.
- Response to changes in software providers.
- Increase in land use cases and zoning enforcement cases.
- Joint Orientation sessions for the School Board and City Council

The role of the Office of General Legal Counsel is to represent the municipal corporation known as the “City of Dover” as a whole. The goal is to save money for the taxpayers and the City of Dover by addressing potential legal problems proactively. A further role of General Legal Counsel is to respond to matters involving litigation.

The use of outside counsel to handle specialty matters continues and consists of legal counsel involved in environmental matters (Attorney Peltonen), schools (Attorney Matt Upton) and labor negotiations (Attorney Broth). There are a small number of other attorneys hired on a variety of smaller matters.



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Organizational Meeting
Meeting Location: Office of the City Manager, City Hall
Meeting Date: **Monday, January 2, 2012**
Meeting Time: **5:30 pm**

1. OATH OF OFFICE

The meeting was called to order and the oath of office was given by City Clerk Lavertu to: Mayor Trefethen, Councilor Carrier, Councilor Cheney, Councilor Crago, Councilor Garrison, Councilor Hooper, Councilor Spuler, Councilor Weeden, and Councilor Weston

2. ELECTION OF DEPUTY MAYOR

Councilor Cheney nominated Councilor Weston; seconded by Councilor Crago. Councilor Garrison nominated Councilor Carrier; seconded by Councilor Hooper. Both nominees outlined their qualifications and discussion ensued. The decision was made to have this be a hand vote instead of paper ballot. Councilor Carrier was chosen as Deputy Mayor 5/4 with Councilors Cheney, Crago, Weeden, and Weston voting for Councilor Weston.

3. ADOPTION OF 2012-2013 COUNCIL PROCEDURAL RULES

Councilor Garrison motioned to adopt current rules as starting point; seconded by Councilor Hooper. Passed 9/0.

1. Motion by Councilor Cheney to delete entire Section 2B; seconded by Councilor Weston. Discussion centered on redundancy as it is already in Robert Rules. However, in our rules it takes only 1 person to challenge, and Roberts Rules requires
2. Withdrawn.
2. Motion by Councilor Cheney to change Page 3, Section 4 a ii shall include citizen comment. No Second.
3. Motion by Councilor Cheney to strike Page 3, Section 4 a iii decorum guidelines still apply; seconded by Councilor Weeden. Again discussion centered on whether this needed to be in the rules as it is already in Roberts Rules, or if it should be spelled out so that residents are aware of the rules. Fails 4/5 with Councilors Cheney, Crago, Weeden, and Weston in favor.
4. Motion by Councilor Cheney to remove quorum definition. No second.
5. Motion by Councilor Cheney to strike Line I; seconded by Councilor Weston. After discussion, motion was changed to: if there is a count of five (5) Councilors present, due consideration should be given so as to not create a deficit in quorum. Passed 9/0.
6. Motion by Councilor Cheney to eliminate Section C-Orderly conduct. No second.



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7. Motion by Councilor Cheney to change Page 6, Section E iv to Time will begin after obligatory introduction of name and address; seconded by Councilor Weston. It was discussed that sometimes people are nervous and time should start after they give this information. It was discussed that this has been the practice, even if not written out. Passed 7/2 with Mayor Trefethen and Councilor Hooper opposed.
8. Motion by Councilor Weeden to change Citizen's Forum time from 5 to 6 minutes; seconded by Councilor Cheney. Discussion centered on whether most points made at Citizen's Forum could be made in a 5 minute time frame and that there are also multiple ways citizens can contact Councilors. Failed 2/7 with Councilors Cheney and Weeden in favor.
9. Motion by Councilor Weston to change Citizen's Forum language to Citizen's Forum will not be a 2-way dialogue; seconded by Councilor Cheney. Passed 9/0.
10. Motion by Councilor Cheney that when a citizen is interrupted when addressing body that timer should be stopped and they have extra minute added; seconded by Councilor Weston. Failed 3/6 with Councilors Cheney, Crago and Weeden in favor.
11. Motion by Councilor Cheney that a person may yield their time at Citizen's Forum and Public Hearings to another person; seconded by Councilor West. Failed 2/7 with Councilors Cheney and Weeden in favor.
12. Motion by Councilor Cheney to add 2 minutes per person at end of City Council meeting after matters of interest. No second.
13. Motion by Councilor Cheney to change Page 7, Section H iii to 5 minutes from 3 minutes; seconded by Councilor Weeden. Discussion centered on whether sponsoring Councilor needed extra time to introduce a resolution. This introduction should be clear and concise. Passed 8/1 with Councilor Hooper opposed.
14. Motion by Councilor Cheney to eliminate Subsections 4, 5, and 6 entirely. No second.
15. Motion by Councilor Cheney to delete Page 9, Sections a i and a ii; seconded by Councilor Weston. Failed 0/9.
16. Motion by Councilor Hooper to recess until 7:00pm on January 4, 2012; seconded by Councilor Cheney. Passed 9/0.

4. COMMITTEE APPOINTMENTS

5. ADJOURN



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Organizational Meeting
Meeting Location: Council Chambers, City Hall
Meeting Date: **Wednesday, January 4, 2012**
Meeting Time: **7:00 pm**

MEETING CONTINUED FROM JANUARY 2, 2012

Present: Mayor Trefethen, Councilor Carrier, Councilor Cheney, Councilor Crago, Councilor Garrison, Councilor Hooper, Councilor Spuler, Councilor Weeden, and Councilor Weston.

Also present: City Manager Joyal, General Legal Council Krans, and City Clerk Lavertu

~~1. OATH OF OFFICE~~

~~2. ELECTION OF DEPUTY MAYOR~~

3. ADOPTION OF 2012-2013 COUNCIL PROCEDURAL RULES

1. Motion by Councilor Weeden to eliminate Pages 16-21; seconded by Councilor Cheney. Discussion centered again on redundancy since it's already in Roberts Rules or whether it should remain so that everyone is aware of these rules since not everyone reads Roberts Rules. Failed 4/5 with Councilors Cheney, Crago, Weeden and Weston in favor.
2. Motion by Councilor Cheney to change Page 9, Section 6 vi to add guidelines established by City Clerk and approved by City Council. No second.
3. Motion by Councilor Cheney to add to Page 12, Section XIV that this shall include submissions by Councilors; seconded by Councilor Weeden. Motion Changed to Submissions from Councilors shall be considered Council Correspondence. Discussion centered on the issue that Councilors are residents as well. However the correspondence is not actually read into the record, just placed on file. Passed 9/0.
4. Motion by Councilor Cheney to add additional posting requirements to Page 13; seconded by Councilor Hooper. It was discussed that this material is lengthy and there is not room at City Hall. However, the documents are available for review. Withdrawn.
5. Motion by Councilor Cheney to change language on Page 14, Section IX ii to read for removal or appointment as appropriate; seconded by Councilor Weeden. Discussion centered on the removal of someone from a Board or Commission for non-ethical reasons and the best way to address this type of scenario. Passed 9/0.
6. Motion by Councilor Weston that the agenda for Appointments Committee, as well as a list of known persons being considered be sent to City Council; seconded by Councilor Cheney. Discussion centered around the need for Councilors to know who is being considered for positions without hindering the Appointments Committee from acting on last minute applications. Passed 9/0.



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7. Motion by Mayor Trefethen that the 11th Edition of Roberts Rules be used; seconded by Councilor Cheney. Passed 9/0.
8. Motions were made by Mayor Trefethen to determine temporary replacement of Deputy Mayor if Mayor is away. However, these were withdrawn as current rules appear to address this already.
9. Motion by Mayor Trefethen to change order of roll call vote so that the mayor will always vote last; seconded by Councilor Cheney. Discussion centered on the practice that some cities do this. However, in some cities the mayor only votes if there is a tie. In Dover, the Mayor is considered closer to an At-Large Council position. Failed 1/8 with Mayor Trefethen in favor.
10. Motion by Mayor Trefethen to amend City Attorney to General Legal Counsel throughout the rules; seconded by Councilor Weston. Passed 8/1 with Councilor Cheney opposed.
11. Motion by Councilor Weston to change the adoption of new rules to a simple majority; seconded by Councilor Cheney. Passed 7/2 with Councilors Garrison and Hooper opposed.

Adoption of 2010-2011 rules as amended was unanimously approved and changed to 2012-2013 procedural rules and decorum guidelines adopted January 4, 2012.

4. COMMITTEE APPOINTMENTS

The Mayor presented a sheet outlining the recommended appointments for the 2012-2013 term.

Appointments Committee: Deputy Mayor Carrier (Chair), Councilor Hooper, Mayor Trefethen
Vote: 5/4 with Councilors Cheney, Crago, Spuler, and Weeden opposed

Arts Commission: Councilor Spuler
Vote: 9/0.

Joint Building Committee: Horne Street School: Deputy Mayor Carrier and Councilor Weston;
Media Access: Mayor Trefethen
Vote: 8/0 with Councilor Cheney abstaining.

McConnell Center Committee: Councilor Crago
Vote: 9/0.

Planning Board: Mayor Trefethen and Councilor Weeden as alternate



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Recreation Advisory Board: Deputy Mayor Carrier
Vote: 9/0.

School Board Liaison: Councilor Hooper
Vote: 9/0.

Solid Waste Advisory Commission: Councilor Garrison
Vote: 9/0.

Transportation Advisory Commission: Councilor Weston
Vote: 9/0.

Pool Advisory Committee: Councilor Weeden
Vote: 9/0.

Legislative liaison: Councilor Garrison
Vote: 9/0.

Motion by Councilor Weeden to reconsider Appointments Committee vote; seconded by Councilor Crago. Discussion centered on how the recommendations were decided and criteria used. Passed 7/3 with Deputy Mayor Carrier, and Councilors Garrison and Hooper opposed. Motion for a new recommendation of Deputy Mayor Carrier, Council Cheney, and Mayor Trefethen by Councilor Weeden; seconded by Councilor Crago.
Vote: 8/1 with Councilor Garrison opposed.

5. ADJOURN



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, January 11, 2012**
Meeting Time: **7:00pm**

1. CALL TO ORDER

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

Councilor Crago led the Pledge of Allegiance.

4. ROLL CALL ATTENDANCE

Present: Mayor Trefethen, Deputy Mayor Carrier, Councilor Cheney, Councilor Crago, Councilor Garrison, Councilor Hooper, Councilor Spuler, Councilor Weeden, and Councilor Weston.

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

5. PROCLAMATIONS/AWARDS – None

6. APPROVAL OF AGENDA

Councilor Hooper moved to add the School Board Report; seconded by Councilor Garrison.

Vote: 9/0.

Councilor Garrison moved to add the Legislative Liaison Report; seconded by Councilor Hooper.

Vote: 9/0.

Deputy Mayor Carrier made a motion to approve the agenda as amended; seconded by Councilor Garrison.

Vote: 9/0.

7. PUBLIC HEARINGS

A. CHAPTER 166, VEHICLES AND TRAFFIC, SMITH WELL PARKING RESTRICTION SPONSORED BY COUNCILOR WESTON

Daniel Hughes, 9 Barry Street: He spoke in favor of this Ordinance.

James Lang, 8 Barry Street: He spoke in support for this Ordinance.

Mayor Trefethen, seeing no one else wishing to speak, closed the Public Hearing.



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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.

Douglas DeDe, 143 Locust Street: He spoke about the budget and needs for the Recycling Center, and asked for a study on the overtime that has been spent over the past year. He spoke about the need for a crosswalk on the corner of Nelson Street. He spoke about the Legislative bulletin and urged the Council to look at this regularly, because the City's budget decisions were driven by what was happening in Concord.

David Montenegro, 55 Union Street: He warned the new Councilors about the echo responses from the City Manager, Mayor and General Legal Counsel to the Councilor's questions regarding issues they were dealing with.

Donald Medbery, 3 Covered Bridge Lane: He spoke about the negative comments regarding the appointment of Councilor Cheney to the Appointments Committee. He spoke about a mysterious document that he will be requesting by RSA 91:A, and said if it does exist he will be bringing it to Secretary of State. He spoke about the erroneous comments from former Councilor Nedelka that he isn't serving on the Save the Bridge Committee.

Mayor Trefethen, seeing no one else wishing to speak, closed The Citizen's Forum.

9. CITY MANAGER'S REPORT

City Manager Joyal submitted his report in writing, and brought a few items to the Council's and public's attention. He referred the Council to Page 13 and 14, an update on the Energy Efficiency project, and went over the progress of the performance contract, which is doing better than projected. He spoke about the results of the National Citizens Survey and said he will be giving the Council a formal presentation on the scores that Dover received.

Deputy Mayor Carrier started a discussion the new water tower project, and Director of Community Services Steele gave an overview of the project to the Council.

Councilor Weston discussed to status of the waterfront development project, and City Manager Joyal gave an update to the Council. He has also asked Mr. Dickinson to send the Council a letter regarding the status of the waterfront project. He said if he hasn't started work on the project by August 2012 then he'll owe the City \$10,000/month. He explained the allowances in the contract with the Council, and the process to verify that they are met.

Councilor Hooper started a discussion regarding the National Citizens Survey and the need to improve the parks.

Councilor Cheney started another discussion regarding the waterfront project, and the City Manager went into further detail with the Council.

Councilor Cheney asked about the progress of the Jenny Thompson pool bathhouse.

City Manager Joyal said they are actually coming in under budget at the moment.

Councilor Weston started a discussion regarding the overtime at the Recycling Center, and the City Manager explained the issue and union restrictions he is dealing with to the Council.



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Mayor Trefethen asked the City Manager to work on the tax cap calculation and get it to the Council by the end of the month.

Deputy Mayor Carrier moved to accept the City Manager's Report; seconded by Councilor Weeden.

Vote: 9/0.

10. APPROVAL OF MINUTES

- A. December 7, 2011 – Special Meeting
- B. December 7, 2011 – Workshop
- C. December 14, 2011 – Regular Session

Deputy Mayor Carrier moved to approve the Minutes as presented; seconded by Councilor Hooper.

Vote: 9/0.

11. MAYOR'S REPORT

Mayor Trefethen said he attended the COAST presentation regarding their revised FastTrans schedule. He attended the DBIDA meeting, which spoke about the proposed parking facilities that they opposed. He hosted a group of Dutch citizens that were here to observe the Presidential Primary. He said he appointed Josh Cote to the Strategic Regional Planning Board.

Deputy Mayor Carrier moved to accept the Mayor's Report; seconded by Councilor Crago.

Vote: 9/0.

12. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2nd READING

1. CHAPTER 166, VEHICLES AND TRAFFIC, SMITH WELL PARKING RESTRICTION SPONSORED BY COUNCILOR WESTON

Councilor Weston moved for its adoption; seconded by Councilor Weeden.

Councilor Weston gave an overview of this Ordinance change to the Council.

Roll Call Vote: 9/0.

B. ORDINANCES IN THE 3rd READING – None

C. RESOLUTIONS – None



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13. NEW BUSINESS

A. CONSENT CALENDAR

1. **RAFFLE – Greater Dover Chamber of Commerce**
2. **RESOLUTION: AWARD OF PURCHASE ORDER TO FISHER AUTOMOTIVE FOR AUTOMOTIVE PARTS AND SUPPLIES**
SPONSORED BY MAYOR TREFETHEN BY REQUEST
3. **RESOLUTION: AWARD OF PURCHASE ORDER TO SULLIVAN TIRE COMPANY FOR TIRES AND MISCELLANEOUS RELATED SUPPLIES**
SPONSORED BY MAYOR TREFETHEN BY REQUEST
4. **RESOLUTION: CONTINUATION OF AGREEMENT FOR WORK BOOTS/FOOTWEAR. SOLE SOURCE VENDOR REDS SHOE BARN**
SPONSORED BY MAYOR TREFETHEN BY REQUEST

COMMITTEE REPORTS

- | | |
|--|---|
| 1. School Board | 8. Transportation Advisory Commission |
| 2. Planning Board | 9. Joint Building Committee – Horne Street |
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| 6. Arts Commission | 13. Parking Commission |
| 7. Solid Waste Advisory Commission | |

Deputy Mayor Carrier moved to approve the Consent Calendar; seconded by Councilor Crago. Mayor Trefethen asked the Council if they had items they would like pulled for further discussion. Councilor Crago pulled Item #13.A.4.

Councilor Hooper pulled the School Board Report.

Councilor Garrison pulled the Legislative Liaison Report.

Mayor Trefethen asked for a roll call vote on the remaining items of the Consent Calendar.

Roll Call Vote: 9/0.

Deputy Mayor Carrier moved for the adoption of Item 13.A.4.; seconded by Councilor Garrison. Councilor Crago started a discussion regarding the sole source status, and felt it should be solicited to other vendors.

City Manager Joyal they the actual meaning of the wording is that they were the sole bidder for work books and footwear. He said if the Council doesn't want to waive the bidding process he can do that, while still having authority to buy from Reds Shoe Barn.

Roll Call Vote: 9/0.



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Councilor Hooper gave an overview of the School Board Report to the Council.
Councilor Garrison moved to accept the School Board Report; seconded by Councilor Weston.
Vote: 9/0.

Councilor Garrison gave an overview of the Legislative Liaison Report to the Council.
Councilor Weston started a discussion regarding the dog licensing bill, and City Clerk Lavertu gave an overview of the dog licensing process.
Mayor Trefethen started a discussion on the bill to exempt taxes on utility poles.
Councilor Hooper moved to accept the Legislative Liaison Report; seconded by Councilor Crago.
Vote: 9/0.

B. RESOLUTIONS

1. B12034 AWARD OF BID FOR BROADCASTING EQUIPMENT FOR COUNCIL CHAMBERS AND SCHOOL
SPONSORED BY MAYOR TREFETHEN BY REQUEST

Deputy Mayor Carrier moved for its adoption; seconded by Councilor Garrison.
City Manager Joyal went over the bidding process with the Council.
Media Access Director Gillis gave an overview of the project to the Council.
Roll Call Vote: 9/0.

2. NITROGEN REDUCTION IN THE GREAT BAY ESTUARY
SPONSORED BY MAYOR TREFETHEN BY REQUEST

Deputy Mayor Carrier moved for its adoption; seconded by Councilor Crago.
City Manager Joyal and Environmental Project Consultant Peschel gave an overview to the Council regarding this project.
Vote: 9/0.

3. ACCEPTABLE USE POLICY
SPONSORED BY MAYOR TREFETHEN BY REQUEST

Deputy Mayor Carrier moved for its adoption; seconded by Councilor Cheney.
Mayor Trefethen gave an overview of this Resolution to the Council.
Vote: 9/0.



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, January 11, 2012**
Meeting Time: **7:00pm**

**4. APPROPRIATION FOR FY2013 CAPITAL IMPROVEMENTS PROGRAM – WATER MAIN COURT STREET NON-DEBT FINANCED PROJECT (REQUIRES A 2/3 MAJORITY VOTE)
(TO BE REFERRED TO A PUBLIC HEARING ON JANUARY 25, 2012.)
SPONSORED BY DEPUTY MAYOR CARRIER AND COUNCILOR GARRISON**

Deputy Mayor Carrier moved to refer this Resolution to a public hearing on January 25, 2012; seconded by Councilor Garrison.
Vote: 9/0.

C. ORDINANCES IN 1ST READING – None

14. COUNCIL CORRESPONDENCE

A. CORRECTION NOTICE FROM XFINITY

Deputy Mayor Carrier moved to place on file; seconded by Councilor Spuler.
Vote: 9/0.

15. COUNCIL MATTERS OF INTEREST

Councilor Crago started a discussion regarding the creation of a Council webpage. City Manager Joyal suggested a resolution be brought to the Council. Councilor Cheney said she will have a resolution to record orientation and organizational meetings. Councilor Weston referred to the Citizen's Forum comment regarding a crosswalk at the corner of Nelson Street. She said the Transportation Advisory Commission has looked at this intersection several times and decided against a crosswalk. She said there have been changes in the neighborhood and the street is now one-way, which they hope will make the area safer. Councilor Crago referred to the echo chamber comment during Citizen's Forum. He said he has found both the Mayor and City Manager to be very proactive and helpful.

16. ADJOURNMENT

Deputy Mayor Carrier moved to adjourn; seconded by Councilor Crago.
Vote: 9/0.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 12.C.1.

Resolution Number: **R – 2012.01.11 – 7**
Resolution Re: **Appropriation For FY2013 Capital Improvements Program – Water Main Court Street Non-Debt Financed Project**

WHEREAS: The City Council desires to make public improvements as listed in the Capital Improvements Program for Year 1 and to finance these improvements with transfers from Reserve Trust Funds and appropriation of existing funds; and

WHEREAS: The City Council adopted the FY 2013 – 2018 Capital Improvements Program on December 14, 2011, which included a project titled Water Main Replacement Court Street in the amount of \$50,000 for FY 2013;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL, THAT:

The following capital outlay is appropriated as part of the FY13 Capital Improvements Program for the purpose so designated and the Finance Director is authorized to transfer the funds from the respective Reserve Fund in the amount listed.

| Item | Description | Appropriation | Funding | Fund |
|------|---------------------------------------|-----------------|----------------------------|-------|
| 1 | Water Main Replacement - Court Street | \$50,000 | Water Fund Capital Reserve | Trust |
| | Total | <u>\$50,000</u> | | |

AUTHORIZATION

Approved as to Funding: Daniel R. Lynch
Finance Director

Sponsored by: Robert Carrier, Deputy Mayor
William Garrison, Councilor
Ward 2

Approved for Legal Compliance:: Allan B. Krans, Sr.
General Legal Counsel

Recorded by: Karen Lavertu
City Clerk

Note: This resolution requires a public hearing and a 2/3 majority vote according to C6-6 of the charter. This resolution is to be referred to public hearing.

Document Created by: Finance
Department
Document Posted on: January 19,
2012

2012.01.11_cip2013_water_main_court_street_non_debt_financed_resolution

Page 1 of 3



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 12.C.1.

Resolution Number: **R – 2012.01.11 – 7**
Resolution Re: **Appropriation For FY2013 Capital Improvements
Program – Water Main Court Street Non-Debt
Financed Project**

DOCUMENT HISTORY:

| | |
|--------------------------------|---------------------------------|
| First Reading Date: 01/11/2012 | Public Hearing Date: 01/25/2012 |
| Approved Date: | Effective Date: |

DOCUMENT ACTIONS:

| VOTING RECORD | | |
|--|------|-----|
| Date of Vote: | YEAH | NAY |
| Mayor Dean Trefethen | | |
| Deputy Mayor, Robert Carrier, At Large | | |
| Councilor Edward Spuler, Ward 1 | | |
| Councilor William Garrison, Ward 2 | | |
| Councilor Michael Crago, Ward 3 | | |
| Councilor Dorothea Hooper, Ward 4 | | |
| Councilor Catherine Cheney, Ward 5 | | |
| Councilor Michael Weedon, Ward 6 | | |
| Councilor Karen Weston, At Large | | |
| Total Votes: | | |
| Resolution does does not pass. | | |



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 12.C.1.

Resolution Number: **R – 2012.01.11 – 7**
Resolution Re: **Appropriation For FY2013 Capital Improvements Program – Water Main Court Street Non-Debt Financed Project**

RESOLUTION BACKGROUND MATERIAL:

This resolution appropriates reserve trust funds and special revenue funds to finance a portion of the FY13 Capital Improvements Program. In addition, it authorizes the transfer of Reserve Trust Fund moneys.

The following table reflects the amount to be appropriated from the reserve fund and the projected balance as of 6/30/2012:

| Description | Proposed Appropriation | Balance 6/30/2012 |
|--------------------------------|---------------------------|----------------------|
| Trust Reserve Funds CIP | | |
| Water Capital Reserve | 50,000 | 2,269,644 |
| Totals | <u>\$50,000</u> | |

In 2005, the City of Dover identified Court Street sidewalks as one of the three sidewalk systems in greatest need of construction, and where present, need repair. Since that time, no substantive improvements have been made; in part because of work (particularly water mains) underneath the sidewalk space is also needed, but a lower priority. Engineering design of the needed water main improvements in FY2013 will help inform the FY2014 CIP process.

In fall of 2011, a citizen petition to add sidewalks to the CIP was presented to the city. Installation of sidewalks at this time would not be prudent, since within a few years these sidewalks would be removed to perform underground work, or damaged by water main leaks that have been experienced along Court Street in recent years due to deteriorating water infrastructure. With the plan to begin realignment of Silver and Court Streets with the intersection of Central Ave in 2018, it is logical to address water infrastructure repair and improvement prior to the surface reconstruction. This will then allow the construction of sidewalks on Court Street with confidence in their longevity in a future year.

CITY OF DOVER
12 JAN 17 AM 9:24



APPLICATION
CITY OF DOVER, NEW HAMPSHIRE

RAFFLE*.....TAG*.....PARADE**..... BLOCK PARTY**..... ROAD TOLL***.....

Fill In Completely and Return To City Clerk NO LATER THAN 30 DAYS PRIOR TO EVENT

Organization Name: The Children's Museum of New Hampshire
Federal Tax ID number for Organization: 0363796
Nature of Organization: Religious, Educational, Charitable, Civic, Sports, Veterans, Fraternal or Political
Contact Person: Justine Roberts Day Time Telephone: 603.742.2002
Address: 6 Washington St Email Address: justine@childrens-museum.org
Purpose of Permit: Raffle
Date of Event: March 23, 2012 Specific Time: 6 pm
Location of Event: The Children's Museum of New Hampshire

(Raffle Permit only)
Prize (s) To Be Awarded: 2012 Mini Cooper
Amount of Donation: \$100 - Date of Drawing: March 23 Specific Time: 6 pm
Place of Drawing: The Children's Museum of New Hampshire

* NOTICE TO RAFFLE AND TAG PERMIT APPLICANTS: Please be advised the City will verify that your organization is in compliance with the regulations of N.H. Charitable Trusts Unit of the Attorney General's Office prior to the acceptance of your application. The police department may contact you to obtain additional information. Please provide a way for us to contact you during the day so the request can expedited. Information on these requirements may be found at http://doj.nh.gov/publications/charitable_forms.html.
** NOTE: ALL REQUESTS FOR PARADE PERMITS AND BLOCK PARTIES MUST HAVE PARADE ROUTE APPROVED BY THE POLICE DEPT. BEFORE GOING ON THE COUNCIL AGENDA

***NOTE: SOLICITING DONATIONS IS PROHIBITED FROM THE ROADWAY WITHOUT SPECIAL PERMISSION FROM THE POLICE DEPARTMENT

I CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT.
I UNDERSTAND THAT THIS PERMIT IS ISSUED BY THE CITY COUNCIL PER the provisions of RSA 287-A, RSA 31:91 and/or RSA 286 and I agree to abide by same.

Signature: [Signature] Date: Jan 13, 2012

Licensing Board approval [Signature] Date: 1/17/12
Revised 03/17/08

All set with
NH Charitable Trust Unit.
DG

25 4 17 A 9 25

RECEIVED
DOVER CITY CLERK
DOVER, NH



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.1.

Resolution Number: **R – 2012.01.25 – 8**

Resolution Re: **Authentication of the City Charter**

WHEREAS: The Charter of the City of Dover requires the authentication of the official version of the City Charter at least once every ten (10) years; and

WHEREAS: The official copy of the Charter of the City of Dover shall be maintained by and kept by the City Clerk.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL:

The official version of the Charter of the City of Dover is authenticated by the members of the 2012-13 Dover City Council with the affixation of their signatures, the signature of the City Clerk, and the affixation of the City seal on the official version. The Official version shall be maintained and kept by the City Clerk pursuant to the provisions of C11-10 of the Charter.

AUTHORIZATION

| | | | |
|--------------------------------|--|---------------|------------------------------------|
| Approved as to Funding: | Daniel R. Lynch Finance Director | Sponsored by: | Mayor Dean Trefethen By request |
| Approved for Legal Compliance: | Allan B. Krans, Sr. General Legal Counsel | | |
| Recorded by: | Karen Lavertu City Clerk | | |



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.1.

Resolution Number: **R – 2012.01.25 – 8**
Resolution Re: **Authentication of the City Charter**

DOCUMENT HISTORY:

| | |
|---------------------|----------------------|
| First Reading Date: | Public Hearing Date: |
| Approved Date: | Effective Date: |

DOCUMENT ACTIONS:

| VOTING RECORD | | |
|--------------------------------------|------|-----|
| Date of Vote: | YEAH | NAY |
| Mayor Dean Trefethen | | |
| Deputy Mayor, Karen Weston, At Large | | |
| Councilor Ed Spuler, Ward 1 | | |
| Councilor William Garrison, Ward 2 | | |
| Councilor Michael Crago, Ward 3 | | |
| Councilor Dorothea Hooper, Ward 4 | | |
| Councilor Catherine Cheney, Ward 5 | | |
| Councilor Michael Weeden, Ward 6 | | |
| Councilor, Robert Carrier, At Large | | |
| Total Votes: | | |
| Resolution does does not pass. | | |

RESOLUTION BACKGROUND MATERIAL:

The provisions of C11-10 of the Dover City Charter requires the authentication of the City Charter by the affixation of the signatures of the members of the Dover City Council, the City Clerk and the affixation of the City seal.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.2.

Resolution Number: **R – 2012.01.25 – 9**

Resolution Re: **City Councilor Web Page Access**

DOCUMENT HISTORY:

| | |
|---------------------|----------------------|
| First Reading Date: | Public Hearing Date: |
| Approved Date: | Effective Date: |

DOCUMENT ACTIONS:

DOCUMENT ACTIONS:

| VOTING RECORD | | |
|-------------------------------------|------|-----|
| Date of Vote: | YEAH | NAY |
| Mayor Dean Trefethen | | |
| Deputy Mayor, Bob Carrier, At Large | | |
| Councilor Edward Spuler, Ward 1 | | |
| Councilor William Garrison, Ward 2 | | |
| Councilor Mike Crago, Ward 3 | | |
| Councilor Dorothea Hooper, Ward 4 | | |
| Councilor Catherine Cheney, Ward 5 | | |
| Councilor Michael Weeden, Ward 6 | | |
| Councilor Karen Weston, At Large | | |
| Total Votes: | | |
| Resolution does does not pass. | | |



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.3.

Resolution Number: **R – 2012.01.25 – 10**
Resolution Re: **Video of Goal Setting Session**

Whereas: The City Council has scheduled a goal setting session for Saturday, January 28, 2012; and

Whereas: Members of the public may be interested in viewing the session on the government television channel.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL:

The City Council Goal Setting meeting scheduled for January 28, 2012 shall be video recorded, web-cast and broadcast on the government channel consistent with available technology.

AUTHORIZATION

Approved as to Funding: Daniel R. Lynch Sponsored by: Councilor Cheney
Finance Director

Approved for Legal Compliance: Allan B. Krans, Sr.
General Legal Counsel

Recorded by: Karen Lavertu
City Clerk

DOCUMENT HISTORY:

| | |
|---------------------|----------------------|
| First Reading Date: | Public Hearing Date: |
| Approved Date: | Effective Date: |

DOCUMENT ACTIONS:

| VOTING RECORD | | |
|--|------|-----|
| Date of Vote: | YEAH | NAY |
| Mayor Dean Trefethen | | |
| Deputy Mayor, Robert Carrier, At Large | | |
| Councilor Ed Spuler, Ward 1 | | |
| Councilor William Garrison, Ward 2 | | |
| Councilor Michael Crago, Ward 3 | | |
| Councilor Dorothea Hooper, Ward 4 | | |
| Councilor Catherine Cheney, Ward 5 | | |
| Councilor Michael Weeden, Ward 6 | | |
| Councilor, Karen Weston, At Large | | |
| Total Votes: | | |
| Resolution does does not pass. | | |



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.3.

Resolution Number: **R – 2012.01.25 – 10**
Resolution Re: **Video of Goal Setting Session**

RESOLUTION BACKGROUND MATERIAL:

The new City Council, consistent with past practice, has scheduled a goal setting session. The session is an important part of city government.

This would be in keeping with the intent and spirit of 91:A and our Dover Net Policy:

Dover Net Policy – Section 2:

2. Live and/or Taped Programs - Live coverage of City Council and School Board meetings and their sub-committees, commissions and board meetings whenever feasible. Meetings are intended to be carried gavel-to-gavel without editing or editorial comment. Some public meetings, city functions, and special events will be taped for later re-broadcast at various times more convenient to the viewing public.

In the spirit of the sunshine law RSA 91:A:

91-A:1 Preamble. – Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.4.

Resolution Number: **R – 2012.01.25 – 11**
Resolution Re: **Letter to Legislative Delegation Regarding Redistricting**

WHEREAS: House Bills 1670 and 1671 regarding the Redistricting has been submitted for consideration in the New Hampshire Legislature; and

WHEREAS: HB 1670 and HB 1671 seek to redistrict the wards of the City of Dover for state voting purposes and representation with a particular effect on the residents of Wards 5+6.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL:

The City Council authorizes the Mayor to submit correspondence to the members of the local legislative delegation and committees voicing objection by the Dover City Council to the passage of legislation redistricting the wards of the City of Dover in a manner detrimental to the commonality of interest of Dover residents.

AUTHORIZATION

| | | | |
|--------------------------------|--|---------------|---------------------------------|
| Approved as to Funding: | Daniel R. Lynch Finance Director | Sponsored by: | Councilor William Garrison, III |
| Approved for Legal Compliance: | Allan B. Krans, Sr. General Legal Counsel | | |
| Recorded by: | Karen Lavertu City Clerk | | |



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.4.

Resolution Number: **R – 2012.01.25 – 11**
Resolution Re: **Letter to Legislative Delegation Regarding Redistricting**

DOCUMENT HISTORY:

| | |
|---------------------|----------------------|
| First Reading Date: | Public Hearing Date: |
| Approved Date: | Effective Date: |

DOCUMENT ACTIONS:

| VOTING RECORD | | |
|--|------|-----|
| Date of Vote: | YEAH | NAY |
| Mayor Dean Trefethen | | |
| Deputy Mayor, Robert Carrier, At Large | | |
| Councilor Ed Spuler, Ward 1 | | |
| Councilor William Garrison, Ward 2 | | |
| Councilor Michael Crago, Ward 3 | | |
| Councilor Dorothea Hooper, Ward 4 | | |
| Councilor Catherine Cheney, Ward 5 | | |
| Councilor Michael Weeden, Ward 6 | | |
| Councilor, Karen Weston, At Large | | |
| Total Votes: | | |
| Resolution does does not pass. | | |

RESOLUTION BACKGROUND MATERIAL:

HB 1670 establishes new councilor districts based on the latest federal decennial census. Rep. Bates of Windham; Special Committee on Redistricting.

HB 1671 establishes new United States House of Representatives districts in accordance with the latest federal decennial census. Rep. Bates of Windham; Special Committee on Redistricting.

These House Bills seek to separate NH House District 6, Wards 5+6, in the City of Dover into a floterial district with a surrounding town(s). This will have the effect of reducing the number of representatives who are dedicated to exclusively representing the interests of the residents of the City of Dover.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.5.

Resolution Number: **R – 2012.01.25 – 12**

Resolution Re: **Letter to Legislative Delegation Regarding Pole Tax**

WHEREAS: House Bill 1305 regarding the Pole Tax has been submitted for consideration in the New Hampshire Legislature; and

WHEREAS: HB 1305 seeks to exempt telephone poles and conduits from property taxation.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL:

The City Council authorizes the Mayor to submit correspondence to the members of the local legislative delegation and committees voicing objection by the Dover City Council to the passage of legislation establishing an exemption for taxation of telephone poles and conduits.

AUTHORIZATION

Approved as to Funding: Daniel R. Lynch Sponsored by: Councilor William Garrison, III
Finance Director

Approved as to Legal Form: Allan B. Krans, Sr.
General Legal Counsel

Recorded by: Karen Lavertu
City Clerk



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.5.

Resolution Number: **R – 2012.01.25 – 12**
Resolution Re: **Letter to Legislative Delegation Regarding Pole Tax**

DOCUMENT HISTORY:

| | |
|---------------------|----------------------|
| First Reading Date: | Public Hearing Date: |
| Approved Date: | Effective Date: |

DOCUMENT ACTIONS:

| VOTING RECORD | | |
|--------------------------------------|------|-----|
| Date of Vote: | YEAH | NAY |
| Mayor Dean Trefethen | | |
| Deputy Mayor, Karen Weston, At Large | | |
| Councilor Ed Spuler, Ward 1 | | |
| Councilor William Garrison, Ward 2 | | |
| Councilor Michael Crago, Ward 3 | | |
| Councilor Dorothea Hooper, Ward 4 | | |
| Councilor Catherine Cheney, Ward 5 | | |
| Councilor Michael Weeden, Ward 6 | | |
| Councilor, Robert Carrier, At Large | | |
| Total Votes: | | |
| Resolution does does not pass. | | |

RESOLUTION BACKGROUND MATERIAL:

Pole Exemption Bill Back; “Municipalities Want to Just Tax and Spend”

As mentioned in a prior *Bulletin*, a bill exempting telephone poles and conduits from property taxation has been introduced for a third consecutive year, after similar bills were defeated in 2010 and 2011.

Curiously, **HB 1305** has not been assigned to the Municipal and County Government Committee, which is charged in the House rules with considering “all matters pertaining to . . . local revenue, including fees, property taxes and exemptions.” In-stead, it has been referred to the Science, Technology, and Energy Committee.

The bill is not scheduled for a hearing until **January 31**, but it is not too early to start talking to your representatives *and senators* about the bill. Last year’s bill was defeated by a small margin, and the telecommunications lobby is not giving up.

When the legislature extended the pole exemption in 2005, it did so only for five years. The exemption was set to expire, and did expire, in 2010. When a tax exemption expires, the property returns to taxable status, and thus the poles and conduits became subject to taxation in 2011.

In 2011, FairPoint Communications paid approximately \$3 million in property taxes on its poles and conduits; that represents a \$3 million tax *reduction* for the rest of the taxpayers in the state. You can click [here](#) to see how much taxpayers in your municipality saved because FairPoint is now paying its share. (This is an exhibit from a PUC filing made by FairPoint on December 16. In the table titled “Pole and Conduit,” the third column shows the amount billed or estimated to be payable to the municipality, and the fourth column shows the amount actually paid by FairPoint. As of that filing, some municipalities had not yet billed FairPoint for the poles and conduits, and a few had sent bills but had not yet received payments. If you are



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.5.

Resolution Number: **R – 2012.01.25 – 12**

Resolution Re: **Letter to Legislative Delegation Regarding Pole Tax**

reading this in hard copy and want to find the exhibit, go to <http://www.puc.nh.gov/Regulatory/Docketbk/2011/11-248.html>, scroll down to 12/16/11, and click on the link for Exhibit 4.)

Not everyone acknowledges that the pole exemption's expiration has resulted in a tax reduction for other taxpayers. In a recent e-mail to all representatives, the prime sponsor of **HB 1305** wrote that instead of reducing taxes for other taxpayers, municipalities will use the tax revenue from poles and conduits to spend more, because **“municipalities want to continue to just tax and spend,”** and commented that “government” had never “said no to more tax money.” He added that **“municipalities should be looking for ways to tighten their belts, just as the state and counties are doing.”** Do you agree? Are municipal officials—and the voters who actually adopt the budgets in 219 of the state's 234 municipalities—a bunch of undisciplined tax-and-spenders?

To be clear, inclusion of the poles and conduits in the property tax base has **already** reduced tax rates. When municipalities adopted their 2011 budgets last winter or spring, the legislature was still considering the bill to reinstate the pole exemption. We know of no municipality that counted on being able to tax poles and conduits when it adopted its budget.

When DRA set the local tax rates in the fall of 2011, it based those rates on the appropriations approved **by the voters** some six to ten months earlier. No one—not the selectmen, DRA, or anyone else—could add “more tax money” to the amount the voters had already approved. The total amount of approved spending was fixed by the voters and could not be changed (in most municipalities) without a special town meeting; all that changed was the amount of property in the tax base. Because the tax base increased while the appropriations remained unchanged, there was necessarily a decrease in the tax rate.

There is also no question that if the 2012 legislature grants telecommunication companies an exemption on their poles and conduits, everyone else's property taxes will increase. That is a simple, unavoidable fact. When one property owner receives a tax exemption, every other property owner sees a tax increase to offset it.

The pole exemption expired two years ago. A Democratic legislature refused to re-instate it in 2010, and an overwhelmingly Republican legislature did the same in 2011. Many current legislators ran for office on a promise not to raise taxes—and they kept that promise last year by not changing the law. Passing this bill now would be a direct violation of that promise.

Letter previously sent by the Dover City Council in 2010

February 18, 2010

Senator Amanda Merrill
8 Meadow Road
Durham, NH 03824

Senator Merrill:

I'd like to take this opportunity to address SB492 with you. This bill extends the prospective repeal date of the local property tax exemption for wooden poles and conduits to July 1, 2014. Under current law the exemption is repealed on July 1, 2010. This exemption has been granted multiple times now, totaling more than ten years. The current proposal extends the exemption for an additional four years.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.5.

Resolution Number: **R – 2012.01.25 – 12**

Resolution Re: **Letter to Legislative Delegation Regarding Pole Tax**

The interesting thing about this bill is that it only applies to wooden poles owned by telecommunication companies. Currently, electric utility companies pay property taxes on their wooden poles and other equipment located on the public right of way and have paid these taxes for years. Additionally, the telecommunication companies are able to charge a fee to other users to run wires on their poles, again in the public right of way and without paying property taxes.

The argument that the telecommunication companies already pay a communications tax is not accurate. They merely collect the tax from users, their customers, and transfer the proceeds to the State. This occurs regularly with other taxes in our State. For example, all restaurants and lodging establishments currently collect the Rooms and Meals tax for the State and transfer the proceeds on a monthly basis.

It is time to level the playing field for all users. As to the claim from telecommunication companies that they would have to pass this additional charge on to their customers, let them go before the Public Utilities Commissions and open their books in order to justify a rate increase. If it were approved it would mean that only users were paying for the telecommunication companies as opposed to the entire municipality subsidizing the cost as now occurs through property tax.

The Dover City Council strongly urges you to vote against extending the repeal date and therefore allow these businesses to once again begin paying their fair share of local property taxes.

Please contact me if I can be of any further assistance on this item.

On behalf of the Dover City Council,

Scott Myers
Mayor

Cc: Dover City Council
Dover State Representatives
Somersworth Mayor Lincoln Soldati
Rochester Mayor T.J. Jean
Portsmouth Mayor Tom Ferrini



CITY OF DOVER

CITY OF DOVER – ORDINANCE

Agenda Item#: 13.C.1.

Ordinance Number: **O – 2012.01.25 – 1**
Ordinance Title: Updating the Dover Zoning Ordinance
Chapter: 170

The City of Dover Ordains:

1. PURPOSE

The purpose of this ordinance is to amend Chapter 170 of the Code of the City of Dover, entitled Zoning, by updating the code to reflect changes in the community, and in land use regulations.

2. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6 “Definitions”, to add new definitions and revise existing definitions to read as follows:

“ABANDONED SIGN means any sign that does not display a well-maintained message for a consecutive one-hundred eighty (180) day period, and/or the owner of said sign cannot be located after reasonable efforts have been made, and/or said sign is no longer fully supported by the structure designed to support the sign for a consecutive one-hundred eighty (180) day period, and/or the sign no longer advertises bona fide business and/or products sold for a consecutive one-hundred eighty (180) day period. The Zoning Administrator shall direct the removal of any sign which meets this definition.”

AND

“ABUTTER means:

- 1) ~~Any person whose property is located in New Hampshire and adjoins or is directly across the STREET or stream from the land under consideration.~~ **means the owner of record of a parcel of land located in New Hampshire and adjoins or is directly within two hundred (200) feet (including land across the street or waterway) of the proposed site under consideration by the Board.**
- 2) For the purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person or entity who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- 3) In the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII. Additionally, the individual owners of units within the association, which are located within two hundred (200) feet of the common property line shall be notified only by first class mail. **[Amended 12-08-10 by Ord. No. 2010-10.27-13]**
- 4) For purposes of notification and receiving testimony, abutter means all affected towns and the regional planning commission in the case of a development having regional impact, as determined by the Board.
- 5) For purposes of notification, abutter ownership information for LOTS located in Dover, shall be obtained through the City’s Tax Assessment Office. **[Amended 12-08-10 by Ord. No. 2010-10.27-13]”**

AND

“ADULT DAY CARE means a facility used for the care of **three (3) or more** adults for less than twenty four (24) hours per day who are in need of supervision or assistance **with daily living activities**. The facility may provide for dining, recreation activities, education and counseling



CITY OF DOVER

CITY OF DOVER – ORDINANCE

Agenda Item#: 13.C.1.

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services, and ACCESSORY USEs related to the care of adults in need. [Added 09-15-93 by Ord. No. 19-93]”

AND

“ASSISTED LIVING FACILITY means a facility, licensed under RSA 151-E, that provides housing and supportive services and care for more than twelve (12) elderly residents who require assistance with daily living activities but do not require the skilled nursing and medical care provided in a nursing home. ~~Such a facility shall be developed and maintained in compliance with RSA 354-A:15, Housing for Older Persons.~~ Such supportive services include the provision of meals, housekeeping, laundry, transportation, daily personal care, dispensing of medications and twenty-four (24) hours per day staffing. An assisted living facility includes a community dining room in which meals are provided to all residents, and each individual assisted living unit may also have a kitchenette. Other than any accommodations provided for use by the facility’s staff, only assisted living units are permitted as part of an assisted living facility. ~~For twelve (12) or less elderly residents, see ELDERLY ASSISTED CARE HOME.”~~

AND

ASSEMBLY HALL means a BUILDING or a portion of a BUILDING, not to exceed five thousand (5,000) square feet, used for groups of people to gather for an event or regularly scheduled program. Assembly Halls include but are not limited to SERVICE CLUB, religious institutions, cultural and educational lecture/performance halls, banquet halls, and similar facilities.

AND

AUTO SERVICE means a place of business which offers as a service the repair of automobiles. Such “AUTO SERVICE” place shall not be construed to be a ~~GASOLINE STATION-VEHICLE REFUELING /RECHARGING STATION.~~

AND

“CONGREGATE CARE FACILITIES~~ES~~ means a residential facility for elderly persons containing ~~efficiency units, individual one (1) and two (2) bedroom units, and units without kitchen facilities.~~ Each unit may also have a kitchenette. The facility shall contain common dining facilities and amenities such as housekeeping, transportation and organized social and recreational activities, and may include limited medical services on site. ~~ACCESSORY USEs typically needed by elderly housing facilities. This facility may be combined with a NURSING HOME.~~ This facility is intended for and solely occupied by persons sixty-two (62) years of age or older and thereby qualifies as “housing for older persons” under state law. [Added 09-15-93 by Ord. No. 19-93]”



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AND

“CONTINUING CARE COMMUNITY FACILITY means a residential development that provides multiple elements of adult living, including independent living units, assisted living units and skilled nursing care, enabling residents to live at a single location as their medical needs change over time. This facility is licensed pursuant to RSA 420-D and includes common dining, recreation and health facilities and other common areas; provides services such as medical care, programmed social activities; and may include limited accessory retail and personal services. This facility is intended for and solely occupied by persons sixty-two (62) years of age or older and thereby qualifies as “housing for older persons” under state law.”

AND

CUSTOMARY HOME OCCUPATION - An occupation carried on a secondary use in a DWELLING UNIT or accessory BUILDING by the occupant of such unit. For the use of a dwelling or accessory BUILDING in any Residential District for a "home occupation," the following conditions shall apply:

- 1) "Home occupation" shall include not more than one (1) of the following uses, provided that such uses are clearly incidental and secondary residential purposes; dressmaker, artist, arts and crafts, writer, teacher, provided that not more than eight (8) pupils simultaneously occupy the BUILDING, musician, antique dealer, hairdresser, **HOME BASED AGRICULTURAL ACTIVITIES**, lawyer, doctor, photographer, dentist, architect, engineer or practitioner of any other profession or similar occupation which may be unobtrusively pursued in a residential area.
- 2) No more than one (1) nonresident shall be employed therein.
- 3) The use is carried on strictly by the occupant of the PRINCIPAL BUILDING. **[Amended 08-01-90 by Ord. No. 8-90]**
- 4) No more than twenty-five percent (25%) of the existing net FLOOR AREA of the principal and any accessory BUILDINGS not to exceed six hundred (600) square feet is devoted to such use.
- 5) There shall be no display of goods or wares visible from the STREET.
- 6) No advertising on the premises other than a small no-illuminated SIGN not to exceed two (2) square feet in area and carrying only the occupant's name and his occupation.
- 7) The BUILDINGS or premises occupied shall not be rendered objectionable or detrimental to the residential character of the NEIGHBORHOOD because of the exterior appearance, traffic emission of odor, gas, smoke, dust, noise, electrical disturbance, light emissions, or in any other way. In a MULTI-FAMILY DWELLING, the use shall in no way become objectionable or detrimental to any residential use within the multifamily STRUCTURE.
- 8) Any such BUILDING shall include no feature of design not customary in BUILDINGS for residential use. The following uses, by nature of the investment or operation, have a potential to rapidly increase beyond the limits specified above for home occupations and impair the use, value and quiet enjoyment of adjacent residential properties. Therefore, uses such as Retail, Clinic, Landscaping, Freight, Trucking or Shipping, Painting of Vehicles, Trailers and Boats, Restaurants, Caterers or Bakeries, Taxi Service, Tool or Equipment Rental, Veterinary hospital



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or KENNEL and others of a similar nature shall not be considered as home occupations.
[Amended 12-08-10 by Ord. No. 2010-10.27-13]

- 9) A minimum of two (2) off-STREET PARKING SPACES shall be provided. All driveways to be used in connection with such occupations shall conform to the city's Driveway Ordinance*.
- 10) Not more than one (1) commercial vehicle in connection with such home occupation shall be stored on the premises.
- 11) A certificate of use for the proposed use is issued by the Zoning Administrator verifying conformance with the preceding standards. Said certificate shall be renewed annually.
[Amended 12-08-10 by Ord. No. 2010-10.27-13]

AND

~~GASOLINE STATION~~ **VEHICLE REFUELING /RECHARGING STATION** means an establishment ~~automobile service station~~, the principle use of which is to provide for the sale of ~~gasoline fuel (including but not limited to gasoline, diesel, natural gas, electricity or hydrogen) and oil to individual vehicles and retail sale of products required for motor vehicle maintenance such as oil, transmission fluid, brake fluid, polish, wax, fuel additives and treatments, wipers, tires, batteries, windshield wiper fluid, cleaning fluids and similar items routine automobile maintenance.~~ **The retail sale of propane and kerosene is also allowed. The retail sale of over-the-counter retail consumer merchandise and DRIVE-IN THRU SERVICE may also be allowed.**

AND

HEIGHT when referring to a **telecommunications TOWER** or other STRUCTURE means the distance measured from ground level to the highest point on the TOWER or other STRUCTURE or appurtenance, even if said highest point is an ANTENNA or other appurtenance.

AND

HEIGHT OF BUILDING means the vertical distance measured from the grade level to the highest level of the roof surface or front PARAPET, whichever is greater. **Television and radio receiver ANTENNAS and photovoltaic systems as well as church steeples shall not be included in this calculation.**

AND

HOME BASED AGRICULTRUAL ACTIVITIES means the sale of products associated with raising poultry/bees/or like animals, or harvesting of herbs, flowers or vegetables/fruit. Products must be grown on-site and may be sold in either in raw or value added forms.

AND

OFFICE means a place of business which may fall under the following categories:

Accessory. An office facility that is incidental and accessory to another business or sales activity that is the primary use of the structure or site.

* **Editor's Note: See Ch. 92, Driveways.**



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Administrative Business Professional. An establishment providing direct, "over-the-counter" services to consumers (e.g., insurance agencies, real estate offices, travel agencies, utility company offices, etc.) and office-type facilities occupied by businesses providing professional services and/or engaged in the production of intellectual property. This use includes:

accounting, auditing and bookkeeping services, advertising agencies, airline, lodging, chain, and rental car company reservation centers, architectural, engineering, planning and surveying services, attorneys, legal services, commercial art and design services, computer software and hardware design, counseling services, court reporting services, data processing services, detective agencies and similar services, educational, scientific and research organizations, employment, stenographic, secretarial and word processing services, insurance claim processing, literary and talent agencies, mail order and e-commerce transaction processing, management and public relations services, media postproduction services, photography and commercial art studios, police facility used as an office where there are no jail detention facilities or storage of vehicles except the parking of police cars, psychologist, telecommunications facility design and management, telemarketing, writers and artists offices;

Government. An administrative, clerical, or public contact office of a government agency, including postal facilities, together with the incidental storage and maintenance of vehicles.

Medical. An office or health facility providing health services including, without limitation, preventative and rehabilitation treatment, diagnostic services, testing and analysis. This use includes offices providing medical, dental, surgical, rehabilitation, podiatral, optometric, chiropractic and psychiatric services, and medical or dental laboratories incidental to these offices, but exclude inpatient services and overnight accommodation.

AND

TEMPORARY PORTABLE SIGN means a SIGN(s) customarily located on a trailer or similar wheeled apparatus, whether self-propelled or pulled by another vehicle, intended for promotional purposes or to convey an advertising message of any kind, which is not permanently affixed to the ground. A-frame, sandwich board, **inflatable** and other SIGNS not permanently affixed, directly or indirectly, upon a BUILDING, STRUCTURE or land and not otherwise referenced under the definitions of "FREE STANDING SIGN," "PROJECTING SIGN" or "WALL SIGN", shall also be considered as "TEMPORARY PORTABLE SIGNS".

AND

METEOROLOGICAL TOWER (MET TOWER) means the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to



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characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a **SMALL WIND ENERGY SYSTEM**.

MODIFICATION in relation to a **SMALL WIND ENERGY SYSTEM** means any change to the system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

NET METERING means the difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer’s small wind energy system that is fed back into the electric distribution system over a billing period.

POWER GRID means the transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

SHADOW FLICKER means the visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

SMALL WIND ENERGY SYSTEM means a wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

SYSTEM HEIGHT means the vertical distance from ground level to the tip of the **WIND GENERATOR** blade when it is at its highest point.

TOWER means the monopole, guyed monopole or lattice structure that supports a **WIND GENERATOR**.

TOWER HEIGHT means the height above grade of the fixed portion of the **TOWER**, excluding the **WIND GENERATOR**.

WIND GENERATOR means the blades and associated mechanical and electrical conversion components mounted on top of the **TOWER** whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

3. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

“The official Zoning Map of the City of Dover, New Hampshire, dated December 9, 2009, is amended by changing from Urban Density Multi-residential (RM-U) to Neighborhood Business (B-1) an area of approximately 1 acre along Central Avenue consisting of the following parcel: 15-105.”



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AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

“The official Zoning Map of the City of Dover, New Hampshire, dated December 9, 2009, is amended by changing from Thoroughfare Business (B-3) to Office (O) an area of approximately 1 acre along Hall Street consisting of the following parcels: 37-17, 37-17A, 37-18 and 37-19”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

“The official Zoning Map of the City of Dover, New Hampshire, dated December 9, 2009, is amended by changing from Rural Residential (R-40) to Medium Density Residential (R-12) an area of approximately 37 acres along Spruce Lane consisting of the following parcels: I-27B, I-27C, I-27D, I-27E, I-27F, I-27G, I-27H, I-27I, I-27J, I-27K, I-27L, I-27M, I-27N, I-27P, I-27Q, I-27R, I-27S, I-27T, I-27U, I-27V, I-27W, I-27X, I-27Y, I-27Z, I-28A, I-28B, I-28C, I-28D, I-28E, I-28F, I-28G, I-28H, I-28I, I-27B, I-27C, I-27D, I-27E, I-27F, I-27G, I-27H, I-27I, I-27J, I-27K, I-27L, I-27M, I-27N, I-27P, I-27Q, I-27R, I-27S, I-27T, I-27U, I-27V, I-27W, I-27X, I-27Y, I-27Z, I-81C, I-81F, I-81G, I-81H, I-81J, I-81L, I-81Q, I-81R, I-81T, I-81U, I-81V, I-81W, I-81X, I-81Y, I-81Z, I-84, I-85A, I-85B, I-85C, I-85D, I-85E, I-85F, I-86, I-87, I-87A, I-87B, I-87C, I-87D, I-87E, I-88, I-88A, I-89, I-89A, I-99, I-99A, I-99B, I-99C, I-99D, I-99D, I-99E, I-99F, I-99G, I-99H, I-99I, I-99J, I-99K, I-99L, I-99M, I-99N, I-99P, I-99Q, I-99R, I-99S, I-99T, I-99U, I-99V, I-99W, I-99X, I-99Y, I-99Z, I-100A, I-100B, I-100C, and I-100D”

4. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District”, by revising the Front Setback Dimensions for the R-12 District as follows:

“[5] **For new subdivisions, the applicant** ~~The front and abut a street setback shall calculate be calculated by determining the average setbacks of all lots within the same zone located within five hundred (500) feet from the exterior lot lines of the original lot to be subdivided. For new construction This dimension shall be considered to be a build to line for the new lots. For expansions, it will remain a setback.~~ Regardless of the average, in no case shall the build to line be closer than five (5) feet to the front LOT line. **Expansions to, or renovations of, structures on existing lots have a twenty five (25) foot setback. Vacant lots created prior to December 2009, have a build to line no closer than five (5) feet and no greater than twenty five (25) feet to the front LOT line.**”

AND



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Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District”, by revising the Permitted Use to remove the term Church and/or Service Club in any district where allowed.

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District”, by revising the Permitted Use to add the use Assembly Hall in the following districts: R-40, R-20, R-12, RM-SU, RM-U, B-1 and O.

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District”, by revising the Front Setback Dimensions for the R-20 District as follows:

“[5] The front setback and abut a street shall be ~~calculated by determining the setbacks of all lots within the same zone located with five hundred (500) feet from the exterior lot lines of the original lot to be subdivided. For new construction, this dimension shall be considered to be a build to line, as opposed to a setback. For expansions, it will remain a setback. Regardless of the average, in no case shall the a build to line be closer than~~ **no closer than twenty (20) feet and no greater than thirty five (35) feet to the front LOT line. Expansions to, or renovations of, existing structures have a thirty five (35) foot setback.”**

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District”, by revising the Uses Via Special Exception Table for the B-3 District by revising as followings:

| Permitted Uses* |
|-----------------------------|
| AUTO SERVICE STATION |

* Permitted Uses not shown to remain.

| Uses Via Special Exception (see 170-52)* |
|--|
| GASOLINE and VEHICLE REFUELING /RECHARGING STATION STATION (SEE OVER) |



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* Uses via Special Exception not shown to remain.

~~Gasoline and~~ **VEHICLE REFUELING /RECHARGING STATION** Stations.

- A. The use of land for a ~~gasoline and~~ vehicle refueling/recharging station ~~station~~ may only be permitted upon the determination that the property values of adjacent land will not be compromised. Any ~~gasoline and~~ vehicle refueling/recharging station ~~station~~ which discontinues operations for a period in excess of **one hundred eighty (180)** ~~ninety (90)~~ days shall be required to file a new application for a special exception with the Zoning Board of Adjustment. Such conditions may include, but need not be limited to, the provision of adequate and properly maintained screening around land so used.
- B. The minimum lot size shall be ~~sixty~~ **eighty** thousand (~~60,000~~ **80,000**) square feet; the minimum lot width shall be one hundred fifty (150) feet. **Thirty** ~~twenty-five~~ percent (~~25~~ **30**%) of the subject parcel shall be open/green space. The total permitted sign area shall not exceed one-hundred (100) square feet.”
- C. **If a DRIVE-IN THRU SERVICE is proposed, said facility shall be setback either fifty (50) feet from a residential abutting lot or one-hundred (100) feet from the abutting residential structure, whichever is greater. Additionally, adequate vegetative or fence screening shall be constructed. Audible ordering system design features shall include, but not be limited to; non-audible ordering systems (touchpad or human contact) shall be utilized, and hours of operation for the drive-in portion of the business shall be limited to 6:00 a.m. to 9: 00 p.m.**
- D. **No fuel storage tanks may be constructed or enlarged closer than one-hundred (100) feet to any Conservation District.**

5. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District”, by adding the following uses and criteria to the Uses Via Special Exception Table for the R-40, R-20, RM-U, and Office Districts:

| |
|---|
| Uses Via Special Exception (see 170-52) |
| ASSISTED LIVING FACILITY (SEE OVER) |
| CONTINUING CARE COMMUNITY FACILITY(SEE OVER) |

ASSISTED LIVING FACILITY is allowed by Special Exception in accordance with the densities and provisions stated below:

- A. The facility shall be serviced by municipal sewer.
- B. The density per unit requirement is 7,500 square feet of lot area in the R-40 District; 5,000 square feet of lot area in the R-20 District; 2,500 square feet of lot area in RM-U District; and 2,000 square feet of lot area in the Office District.
- C. Parking lots and service areas are screened from abutting residential uses.



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D. The facility shall obtain a license from the State of New Hampshire.

CONTINUING CARE COMMUNITY FACILITY is allowed by Special Exception in accordance with the densities and provisions stated below:

- A. The facility shall be serviced by municipal sewer.
- B. The density per unit requirement is 7,500 square feet of lot area in the R-40 District; 5,000 square feet of lot area in the R-20 District; 2,500 square feet of lot area in RM-U District; and 2,000 square feet of lot area in the Office District.
- C. Parking lots and service areas are screened from abutting residential uses.
- D. The facility shall obtain a license from the State of New Hampshire.

6. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District”, by amending the following uses and criteria in the CBD Districts:

| Uses | Commercial | Mixed Use | Residential |
|--|---|--|---|
| Residential | Permitted, but not on ground floor, except as an existing use | Permitted, but not on ground floor except in existing structures | Permitted |
| Lodging | Permitted | Permitted, up to 12 rooms w/stays up to 14 days | Permitted, up to 12 rooms w/stays up to 14 days |
| Professional Services/Offices/ Commercial/ Assembly Hall | Permitted | Permitted | Home Occupation, Neighborhood Store , others via CUP (170-10.1 B) |
| Eating and Drinking (without drive-thru) | Permitted | Not Permitted | Not Permitted |
| Retail/ Personal Services (without drive-thru) | Permitted | Permitted | Permitted |
| Civic | Permitted | Permitted | Permitted |



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| | | | |
|-------|-------------------------|-------------------------|-------------------------|
| | | | |
| Other | Via CUP (170-10.1 B) | Via CUP (170-10.1 B) | Via CUP (170-10.1 B) |

7. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District”, by adding the following use in the R-20 Districts:

“Greenhouse, Retail Sale of Agricultural or Farm Products Raised on Site”

8. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-27.2 “Transfer of Development Rights”, by revising Section D “Districts Defined” as follows:

- 2) “The Residential TDR DISTRICT is hereby determined to be Residential districts ~~as shown~~ **noted or displayed** on the Zoning Map for the City of Dover, New Hampshire, adopted December 9, 2009. The SENDING AREA is defined to be any land preserved by the City of Dover through conservation programs in the R-40 or R-20 residential zoning districts. The RECEIVING AREA is defined to be all non-R-40 or R-20 zoning districts east of the Spaulding Turnpike which allow residential development.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-27.2 “Transfer of Development Rights”, by revising Section G “Residential Performance Standards” as follows:

- 2) “Regardless of the method utilized, the transfer shall equate to one (1) unit per acre preserved. If the end result is a village themed residential/commercial project, the transfer shall equate to one (1) unit per ~~three~~ **tenth (10th)** of an acre preserved. A minimum of three (3) acres shall be purchased.

9. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by adding Article VII “Overriding Districts” by adding new Chapter 170-27.3 “Small Wind Energy Systems”, as follows:

“170-27.3 SMALL WIND ENERGY SYSTEM



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A) Authority/Purpose:

This **SMALL WIND ENERGY SYSTEMS** ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate **SMALL WIND ENERGY SYSTEMS** in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for **SMALL WIND ENERGY SYSTEMS** to ensure compliance with the provisions of the requirements and standards established herein.

B) Procedure for Review:

1) **BUILDING Permit:** **SMALL WIND ENERGY SYSTEMS** and met **TOWERs** are an accessory use permitted in all zoning districts where **STRUCTUREs** of any sort are allowed. No **SMALL WIND ENERGY SYSTEM** shall be erected, constructed, or installed without first receiving a **BUILDING** permit from the **BUILDING** inspector. A **BUILDING** permit shall be required for any physical modification to an existing **SMALL WIND ENERGY SYSTEM**. Met **TOWERs** that receive a **BUILDING** permit shall be permitted on a temporary basis not to exceed 3 years from the date the **BUILDING** permit was issued.

2) **Application:** Applications submitted to the **BUILDING** inspector shall contain a site plan with the following information:

- a) Property lines and physical dimensions of the applicant's property.
- b) Location, dimensions, and types of existing major **STRUCTUREs** on the property.
- c) Location of the proposed **SMALL WIND ENERGY SYSTEM**, foundations, guy anchors and associated equipment.
- d) **TOWER** foundation blueprints or drawings.
- e) **TOWER** blueprints or drawings.
- f) Setback requirements as outlined in this ordinance.
- g) The **RIGHT-OF-WAY** of any public road that is contiguous with the property.
- h) Any overhead utility lines.
- i) **SMALL WIND ENERGY SYSTEM** specifications, including manufacturer, model, rotor diameter, **TOWER** height, **TOWER** type, nameplate generation capacity.
- j) **SMALL WIND ENERGY SYSTEMS** that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
- k) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
- l) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State **BUILDING** Code.
- m) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
- n) List of abutters to the applicant's property.



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3) **ABUTTER and Regional Notification:** In accordance with RSA 674:66, the **BUILDING** inspector shall notify all abutters and the local governing body by certified mail upon application for a **BUILDING** permit to construct a **SMALL WIND ENERGY SYSTEM**. The public will be afforded 30 days to submit comments to the **BUILDING** inspector prior to the issuance of the **BUILDING** permit. The **BUILDING** inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the **BUILDING** inspector shall follow the procedures set forth in RSA 36:57, IV.

C) Standards:

1. The **BUILDING** inspector shall evaluate the application for compliance with the following standards;

a) **SETBACK:** The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the **TOWER** base to property line, public roads, or nearest point on the foundation of an occupied **BUILDING**.

| Minimum Setback Requirements | | | |
|--|---|---|--------------|
| Occupied BUILDINGs on Participating Landowner Property | Occupied BUILDINGs on Abutting Property | Property Lines of Abutting Property and Utility Lines | Public Roads |
| 0 | 1.5 | 1.1 | 1.5 |

- i) **SMALL WIND ENERGY SYSTEMs** must meet all setbacks for principal **STRUCTUREs** for the zoning district in which the system is located.
- ii) Guy wires used to support the **TOWER** are exempt from the **SMALL WIND ENERGY SYSTEM** setback requirements.

b) **TOWER:** The maximum **TOWER** height shall be restricted to 35 feet above the tree canopy within 300 feet of the **SMALL WIND ENERGY SYSTEM**. In no situation shall the **TOWER** height exceed 150 feet.

c) **Sound Level:** The **SMALL WIND ENERGY SYSTEM** shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.

d) **SHADOW FLICKER:** **SMALL WIND ENERGY SYSTEMs** shall be sited in a manner that does not result in significant **SHADOW FLICKER** impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied **BUILDINGs**. The applicant has the burden of proving that the **SHADOW FLICKER** will not have significant adverse impact on neighboring or adjacent uses.



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Potential **SHADOW FLICKER** will be addressed either through siting or mitigation measures.

- e) **SIGNs:** All **SIGNs** including flags streamers and decorative items, both temporary and permanent, are prohibited on the **SMALL WIND ENERGY SYSTEM**, except for manufacturer identification or appropriate warning signs.
- f) **Code Compliance:** The **SMALL WIND ENERGY SYSTEM** shall comply with all applicable sections of the New Hampshire State **BUILDING Code**.
- g) **Aviation:** The **SMALL WIND ENERGY SYSTEM** shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- h) **Visual Impacts:** It is inherent that **SMALL WIND ENERGY SYSTEMs** may pose some visual impacts due to the **TOWER** height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
 - i) The applicant shall demonstrate through project site planning and proposed mitigation that the **SMALL WIND ENERGY SYSTEM's** visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.
 - ii) The color of the **SMALL WIND ENERGY SYSTEM** shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
 - iii) A **SMALL WIND ENERGY SYSTEM** shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the **SMALL WIND ENERGY SYSTEM**.
- i) **Approved Wind Generators:** The manufacturer and model of the wind generator to be used in the proposed **SMALL WIND ENERGY SYSTEM** must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
- j) **Utility Connection:** If the proposed **SMALL WIND ENERGY SYSTEM** is to be connected to the power grid through **NET METERing**, it shall adhere to **RSA 362-A:9**.
- k) **Access:** The **TOWER** shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.



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- 1) **Clearing:** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the **SMALL WIND ENERGY SYSTEM** and as otherwise prescribed by applicable laws, regulations, and ordinances.

- D) **Abandonment:**
 - 1) At such time that a **SMALL WIND ENERGY SYSTEM** is scheduled to be abandoned or discontinued, the applicant will notify the **BUILDING** inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
 - 2) Upon abandonment or discontinuation of use, the owner shall physically remove the **SMALL WIND ENERGY SYSTEM** within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the **BUILDING** inspector. “Physically remove” shall include, but not be limited to:
 - a) Removal of the **WIND GENERATOR** and **TOWER** and related above-grade **STRUCTURES**.
 - b) Restoration of the location of the **SMALL WIND ENERGY SYSTEM** to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
 - 3) In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the **BUILDING** inspector may issue a Notice of Abandonment to the owner of the **SMALL WIND ENERGY SYSTEM**. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the **BUILDING** inspector shall determine if the **SMALL WIND ENERGY SYSTEM** has been abandoned. If it is determined that the **SMALL WIND ENERGY SYSTEM** has not been abandoned, the **BUILDING** inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
 - 4) If the owner fails to respond to the Notice of Abandonment or if, after review by the **BUILDING** inspector, it is determined that the **SMALL WIND ENERGY SYSTEM** has been abandoned or discontinued, the owner of the **SMALL WIND ENERGY SYSTEM** shall remove the wind generator and **TOWER** at the owner’s sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the **SMALL WIND ENERGY SYSTEM** after the Notice of Abandonment procedure, the **BUILDING** inspector may pursue legal action to have the **SMALL WIND ENERGY SYSTEM** removed at the owner’s expense.

- E) **Violation:**



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It is unlawful for any person to construct, install, or operate a **SMALL WIND ENERGY SYSTEM** that is not in compliance with this ordinance. **SMALL WIND ENERGY SYSTEMS** installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the **SMALL WIND ENERGY SYSTEM**.

F) Penalties:

Any person who fails to comply with any provision of this ordinance or a **BUILDING** permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.”

10. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-28.2 “Residential-Commercial Mixed Use (RCM) Overlay District”, by revising Section E “Procedural Concepts” as follows:

“The developer shall prepare a Development Plan, which locates the proposed types of non-residential and residential development, utilities, access roads, and public ways. The parcels comprising the development may be under separate ownership, but shall be treated as one development and shall be bound by the approval granted for the entire Development Plan. If approval is granted, individual LOTS must be developed as part of the larger Development Plan and phasing outlined below, and not separately. The Development Plan must identify the percentage of the non-residential uses, residential uses and OPEN SPACE. Non-residential **and/or mixed use** uses must exceed forty percent (40%) of the original tract, residential uses must not exceed thirty-five percent (35%) of the original tract, and a minimum of twenty percent (20%) of the original tract shall be OPEN SPACE. Fifty percent (50%) of the required OPEN SPACE (as defined in Chapter 155-60) must be usable uplands and reasonably accessible to all property owners in the project. Any OPEN SPACE provided above twenty percent (20%) may be mixed wetlands and upland.”

11. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Article Chapter 170-32 “Sign Review and Regulations”, by revising Section L “Election Signs” as follows:

- L) ~~“Elections~~ **Political advertising SIGNS.** ~~Elections~~ **Political advertising SIGNS** are permitted as follows: **[Amended 12-09-09 by Ord. No. 2009-09.09-15]**
- 1) The provisions of this section are in addition to the political **advertising SIGN controls** established under Chapter 70 of the New Hampshire Revised Statutes Annotated, as ~~amended:~~ **provisions of state law.**
 - ~~2) Elections SIGNS are permitted no sooner than thirty (30) days prior to a primary or regular election and must be removed within ten (10) days of the closing of the polls.~~



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- 3) Elections SIGNS shall not be affixed in any manner to public property (City-owned), nor to utility poles and fixtures, nor painted, pasted or affixed in any manner that prohibits quick and complete removal.
 - (a) ~~As per RSA 664:17, election SIGNS are permitted within the public RIGHT OF WAY but not within the edge of pavement, with the consent of the owner of the land over which the RIGHT OF WAY passes. Signage shall not obstruct the safe flow of traffic, vehicular or otherwise. [Amended 12-08-10 by Ord. No. 2010-10-27-13]~~
- 4) ~~The person whose name appears on each political SIGN as required by Chapter 70 of the New Hampshire Revised Statutes Annotated, as amended, is responsible for the placement, distribution and removal of political SIGNS in conformance with the requirements of this Zoning Ordinance. The person whose name appears on political advertising sign, or the person providing consent to placement, is responsible for the placement of and removal of the sign.~~
- 5) No SIGN in any district shall be larger than sixteen (16) square feet.
- 6) ~~Any candidate failing to comply with the above requirements shall be subject to a fine not to exceed fifty dollars (\$50.00) per SIGN violation. Removal of a political advertizing sign not placed or removed in accordance with state law or local ordinance shall be subject to an administrative fine as contained in the local fee schedule."~~

12. TAKES EFFECT

This ordinance shall take effect upon passage and publication of notice as required by RSA 47:18.

REQUIRES A PUBLIC HEARING

AUTHORIZATION

Approved as to Funding: Daniel R. Lynch
Finance Director

Sponsored by: Dean Trefethen, Mayor
Planning Board Representative

Approved as to Legal Form: Allan B. Krans, Sr.
City Attorney

Recorded by: Karen Lavertu
City Clerk

DOCUMENT HISTORY:

| | |
|---------------------|----------------------|
| First Reading Date: | Public Hearing Date: |
| Approved Date: | Effective Date: |

DOCUMENT ACTIONS:

| VOTING RECORD | | |
|----------------------------------|-----|-----|
| Date of Vote: | YEA | NAY |
| Mayor Dean Trefethen | | |
| Deputy Mayor Robert Carrier | | |
| Councilor Edward Spueler, Ward 1 | | |

Document Created by: Planning Department
Document Posted on: January 12, 2012

updating_the_dover_zoning_ordinance
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| | | |
|------------------------------------|--|--|
| Councilor William Garrison, Ward 2 | | |
| Councilor Michael Crago, Ward 3 | | |
| Councilor Dorothea Hooper, Ward 4 | | |
| Councilor Catherine Cheney, Ward 5 | | |
| Councilor Michael Weeden, Ward 6 | | |
| Councilor Karen Weston, At Large | | |
| Total Votes: | | |
| Resolution does does not pass. | | |



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ORDINANCE BACKGROUND MATERIAL:

The amendments, which the Planning Board posted on October 25, 2011, were drafted by staff and the Planning Board during the spring and summer of 2011. The amendments are the result of a comprehensive effort by the Planning Board to involve the public in the process. These amendments were suggested by the Zoning Board of Adjustment, the US Environmental Protection Agency, property owners and the Planning staff. Goals of the amendments include the protection of Dover's character, promotion of development that will have a positive tax impact, and protection of natural resources. Since some amendments affect all zoning districts in the City, a notice was sent to all property owners inviting them to a public hearing on November 29, 2011.

The Planning Board held a second public hearing on December 20, 2011. After the second public hearing, it unanimously voted to approve the zoning amendments and forwarded them to the City Council. The Council may overturn the amendments with a 2/3rds vote.

The following is a summary of the proposed zoning amendments:

2. Amend Chapter 170-6, "Definitions" by revising the definitions of Abutter, Adult Day Care, Auto Service, Congregate Care Facility, Customary Home Occupation, Gas Station, Height, Height of a Building, Temporary Portable Sign, and by adding definitions for Abandoned Sign, Assisted Living Facility, Assembly Hall, Continuing Care Community Facility, Home Based Agricultural Activities, Office, Meteorological Tower, Modification, Net Metering, Power Grid, Shadow Flicker, Small Wind Energy System, System Height, Tower, Tower Height, and Wind Generator.
3. Amend Chapter 170-8 to rezone a 1 acre area of Central Avenue from Residential Multi-family Urban (RM-U) to Neighborhood Business (B-1), rezone a 1 acre area of Hall Street from Thoroughfare Business (B-3) to Office (O) and rezone a 37 acre area of Spruce Lane from Rural Residential (R-40) to Medium Density Residential (R-12).
4. Amend Chapter 170-12 by revising the front setback for the Medium Density Residential (R-12) and Low Density Residential (R-20) districts. Remove the uses "Church" and "Service Club", and replace them with "Assembly Hall" in the R-40, R-20, R-12, RM-SU, RM-U, B-1 and O districts. Revise the special exception criteria for a Gas Station in the B-3 district.
5. Amend Chapter 170-12 by adding "Assisted Living Facility" and "Continuing Care Community Facility" as uses allowed by special exception in the R-40, R-20, RM-U and O District Tables.
6. Amend Chapter 170-12 by adding "Assembly Hall" as a permitted use and adding "Without Drive-thru" to the permitted Retail/Personal Services uses in the CBD District Table.
7. Amend Chapter 170-12 by adding "Greenhouse, Retail Sale of Agricultural or Farm Products Raised on Site" to the permitted uses in the R-20 District Table.
8. Amend Chapter 170-27.2 by revising the location of the sending district for residential Transfer of Development Rights, and clarifying the density for a village themed project.
9. Amend Chapter 170 by adding section 27.3 "Small Wind Energy System" to allow properties to install wind energy generating systems.
10. Amend Chapter 170-28.2 by clarifying the use calculation for the RCM overlay district.
11. Amend Chapter 170-32 "Sign Review and Regulations" by amending the "Elections Signs" section to conform to state statute.

Attached is report to the City Council from the Planning Director, as required by Chapter 170

To: Dover City Council
From: Christopher Parker, AICP
CC: J. Michael Joyal, City Manager
Dover Planning Board
Date: January 18, 2011
Re: Zoning Amendments

ISSUE:

On December 20, 2011, the City of Dover Planning Board unanimously approved 10 amendments to the City' Zoning Ordinance, chapter 170.

INTENT:

This memo will briefly describe the findings of the Planning Board and ensure compliance with Chapter 170 section 53, subsection F of the City of Dover Code.

GOALS:

The proposed area of rezoning must meet certain criteria for the Planning Board to support its adoption. This memo will review the report criteria laid out in Chapter 170 to explain to the City Council the findings of the Planning Board.

PROCESS:

In January of 2011, staff presented the planning board with a list of suggested areas of the zoning code to review. This list was generated by public input, input from land use boards, and from staff. Additionally, in June the City received input from the US EPA, through a grant it received.

The Planning Board and staff developed the amendments during the spring and summer months, and posted them, after consideration on October 25, 2011. It held public hearings on November 29, and December 20, 2011. On December 20, 2011, the Board approved the amendment and forwarded it to the City Council for ratification.

ATTACHMENTS:

- Presentation to Planning Board with maps and comparison tables

As per section 170-53 F), the Planning Board shall provide to the City Council a report on each proposed amendment that has been proposed and endorsed by it. This report shall include the Board's findings and recommendations on the following:

The consistency of the proposed amendments with the Master Plan;

The 2007 update to the City's Land Use Chapter of its Master Plan is entitled "It's All About Context." This chapter emphasizes the need for new development to be in keeping with the existing conditions in a neighborhood. Amendments 2, 3, 5 and 9 all include elements of recommendations of the Master Plan. Additionally, most of the amendments presented were to clarify or define regulations so that the ordinance is clear and easier to understand and utilize.

The consistency of the proposed amendment with other plans, studies, or technical reports prepared by or for the Board and the City;

This proposed amendment does not conflict with any other plans, studies or technical reports.

The effect of the proposed amendment on the City's municipal services and capital facilities as described in the Capital Improvements Program;

This proposed amendment does not conflict with the Capital Improvements Program.

The effect of the proposed amendment on the natural, environment, and historical resources of the City;

Included in these amendments are ones which will clarify the role of the transfer of development rights regulations, which the City has utilized since the 1990s. This clarification will encourage the use of the TDR program for residential use. If this proves true, more use of the program will occur, and more land in Dover can be permanently conserved for future generations.

The effect of the proposed amendment on neighborhood including the extent to which nonconformities will be created or eliminated;

Amendment 3 seeks to rezone three areas of the City and was developed specifically to correct known nonconformities. These are areas where uses or dimensional regulations have created scenarios where property owners would require variances for reasonable use of their property.

The first area is to rezone a 1 acre area of Central Avenue from Residential Multi-family Urban (RM-U) to Neighborhood Business (B-1). This area is commercially used today, as a result of a series of variances in the 1980s and 1990s. The property is vacant and this amendment will make the property more appropriate for reuse by broadening the uses allowed to be compatible with the non-residential structure.

The second area is to rezone a 1 acre area of Hall Street from Thoroughfare Business (B-3) to Office (O). This is an area that transitions between the office district near Wentworth Douglas Hospital and the retail and shopping areas to the north. The amendment will move the zoning boundary to the back of four parcels, as opposed to the center of a street. The move will make the lot sizes conforming and allow for a residential re-use of the property, which is not practical under the B-3 zoning.

The final area is to rezone a 37 acre area of Spruce Lane from Rural Residential (R-40) to Medium Density Residential (R-12). This will rezone an area of Dover where the homes are predominantly on smaller lots, but zoned for one acre. This has created a hardship for homeowners who need relief from the setbacks required. The setbacks will now be more conforming with the structures in place. This area is currently built out, and it does not include vacant land which could be developed at a denser rate than previously.

The effect of the proposed amendment on the City's economy and fiscal resources; and

There does not appear to be a negative effect on the City's economy or fiscal resources based upon this proposal, as they clarify the City's regulations. They also look to create a fair and balanced growth pattern.

The recommendation of the Planning Board relative to whether the proposed amendment should be adopted or rejected, and any recommendations for modifications to the proposed amendment.

The Planning Board unanimously approved the amendments and hereby submits them to the City Council for ratification.

Rezoning 2011



Planning Board
November 29, 2011

Amendment Type

| Amendment | Non-Use | Use |
|-----------|---------|-----|
| 2 | X | X |
| 3 | | X |
| 4 | X | X |
| 5 | | X |
| 6 | | X |
| 7 | | X |
| 8 | X | |
| 9 | | X |
| 10 | X | |
| 11 | X | |

Non-Use Amendments

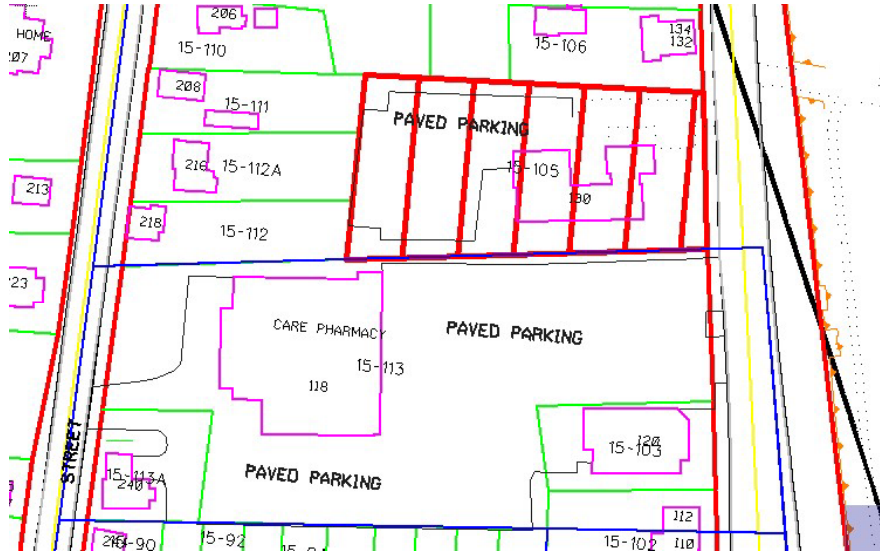
| # | Intent |
|----|---|
| 2 | Revise the definitions of Abutter, Height, Height of a Building, and by add definitions for Modification, Net Metering, Power Grid, Shadow Flicker, System Height, and Tower Height |
| 4 | Revise the front setback for the Medium Density Residential (R-12) and Low Density Residential (R-20) districts. |
| 8 | Revising the location of the sending district for residential Transfer of Development Rights, and clarifying the density for a village themed project. |
| 10 | Clarify the use calculation for the RCM overlay district. |
| 11 | Amend the “Elections Signs” section to conform to state statute. |

Use Amendments

| # | Intent |
|---|--|
| 2 | Revise the definitions of Adult Day Care, Auto Service, Congregate Care Facility, Customary Home Occupation, Gas Station, Temporary Portable Sign, and by add definitions for Abandoned Sign, Assisted Living Facility, Assembly Hall, Continuing Care Community Facility, Home Based Agricultural Activities, Office, Meteorological Tower, Small Wind Energy System, Tower and Wind Generator. |
| 4 | Remove the uses “Church” and “Service Club”, and replace them with “Assembly Hall” in the R-40, R-20, R-12, RM-SU, RM-U, B-1 and O districts. Revise the special exception criteria for a Gas Station in the B-3 district. |

Use Amendments

| # | Intent |
|---|---|
| 5 | Allow “Assisted Living Facility” and “Continuing Care Community Facility” by special exception in the R-40, R-20, RM-U and O Districts. |
| 6 | Allow Assembly Hall” as a permitted use and adding “Without Drive-thru” to the permitted Retail/Personal Services uses in the CBD District Table. |
| 7 | Allow Greenhouse, Retail Sale of Agricultural or Farm Products Raised on Site” in the R-20 District |
| 9 | Allow Small Wind Energy Systems |



Amendment 4 Central Avenue:

Rezone a 1 acre area of Central Avenue from Residential Multi-family Urban (RM-U) to Neighborhood Business (B-1).

| Dimensional Requirements | Urban Density Multi-Residential (RM-U) | Neighborhood Business (B-1) |
|--------------------------------|--|-----------------------------|
| Minimum Lot Size | 10,000 square feet | 10,000 square feet |
| Minimum Frontage | 80 feet | 100 feet |
| Minimum Front Building Setback | Neighborhood Average | 15 feet |
| Minimum Rear Building Setback | 15 feet | 10 feet |
| Minimum Side Building Setback | 15 feet | 15 feet |
| Maximum Coverage of a Lot | 40 percent | 50 percent |
| Maximum Height | 40 feet | 10 feet |
| Density | 1 unit per 8,000 sf with SE | N/A |



Amendment 4

Hall Street:

Changes e a 1 acre area of Hall Street from Thoroughfare Business (B-3) to Office (O)

| Dimensional Requirements | Thoroughfare Business (B-3) | Office (O) |
|--------------------------------|-----------------------------|---------------------|
| Minimum Lot Size | 20,000 square feet | 10,000 square feet |
| Minimum Frontage | 125 feet | 100 feet |
| Minimum Front Building Setback | 50 feet | 12 feet |
| Minimum Rear Building Setback | 25 feet | 10 feet |
| Minimum Side Building Setback | 15 feet | 10 feet |
| Maximum Coverage of a Lot | 50 percent | 50 percent |
| Maximum Height | 40 feet | 65 feet |
| Density | 1 unit per 5,000 sf with SE | 1 unit per 5,000 sf |

Spruce Lane:

Amendment 4



| Dimensional Requirements | Rural Residential District (R-40) | Medium Density Residential (R-12) |
|--------------------------------|-----------------------------------|-----------------------------------|
| Minimum Lot Size | 40,000 square feet | 12,000 square feet |
| Minimum Frontage | 150 feet | 100 feet |
| Minimum Front Building Setback | 40 feet | 30 feet |
| Minimum Rear Building Setback | 25 feet | 15 feet |
| Minimum Side Building Setback | 30 feet | 15 feet |
| Maximum Coverage of a Lot | 10 percent | 30 percent |
| Maximum Height | 35 feet | 35 feet |
| Density | 1 unit per 40,000 sf | 1 unit per 12,000 sf |

Changes a 37 acre area of Spruce Lane from Rural Residential (R-40) to Medium Density Residential (R-12).

For More Information....

- **The full text is available:**
 - **On the City’s Web Site:** www.dover.nh.gov under “Current Reports”
 - **In the Planning Department and City Clerk’s Office M-Th 8 am to 6 pm.**
 - **At the Public Library**
- **Please call 516-6008 with further questions.**
 - ◉ Blog: <http://dovernhplanning.blogspot.com/>
 - ◉ Facebook: www.facebook.com/DoverNHPLanning
 - ◉ Twitter: @DoverNHPlanning