



CITY OF DOVER

CITY COUNCIL - AGENDA

Meeting Type: **Regular Meeting**
Meeting Location: **Council Chambers, City Hall**
Meeting Date: **Wednesday, September 26, 2012**
Meeting Time: **7:00 pm**

1. CALL TO ORDER

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

Councilor Weeden 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 Counselor Krans, and City Clerk Lavertu.

5. PROCLAMATIONS/AWARDS – None

6. APPROVAL OF AGENDA

Councilor Garrison moved to add the Legislative Liaison Report; seconded by Deputy Mayor Carrier.

Vote: 9/0.

Deputy Mayor Carrier moved to add the Appointments Committee Report; seconded by Councilor Garrison.

Vote: 9/0.

Deputy Mayor Carrier moved to add as Item 13.B.5. the City Manager's Evaluation; seconded by Councilor Weeden.

Vote: 9/0.

Deputy Mayor Carrier moved to approve agenda as amended; seconded by Councilor Weeden.

Vote: 9/0.

7. PUBLIC HEARINGS

Mayor Trefethen asked to combine Item 7.C. through 7.L.
Councilor Cheney objected.

A. CHAPTER 3 – ADMINISTRATIVE CODE

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

Gina Cruikshank, 19 Glenwood Avenue: She said she was on the Council at the time the 2010 ordinances were voted on. She admits they weren't in the proper format, but said the intention was clear. She said this process is a waste of taxpayer money. She said it made no sense that the Councilors bringing this forward, because it was also going against State law and City Charter, since it needs to be brought forward by the recommendation of the City Manager. She said a yes vote by the Council would break the law and violate their Oath of Office to uphold the City Charter.



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Jan Nedelka, 169 Dover Point Road: He said when the prior Council voted on this both versions were readily available and he reviewed them both. He spoke on this process and the actions of the sponsoring Councilors trying to make this as complicated, lengthy and wasteful as possible. He talked about the elimination of committees if this was passed, suggesting a secret agenda to have less citizen involvement and more power to the Council. He said the City should expect lawsuits and ethics investigations for the sponsoring Councilors who knowingly broke State law and City Charter violations. He said it could also involve the removal of Councilors, and the added expense of a special election.

Mary Hebbard, 97 Spruce Lane: She spoke in favor of all these ordinances. She said the administrative code should be restored to before the 2010 changes. She said the City Manager should assess these ordinances so they could do it right. She said the City Manager knew the ordinances in 2010 did not follow the City Charter, and that action alone required immediately dismissal. She asked the Council to make a motion to fire the City Manager.

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

B. CHAPTER 5, BOARDS, COMMISSIONS AND COMMITTEES
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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

C. CHAPTER 3 – ADMINISTRATIVE CODE – N0
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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

D. CHAPTER 3 – ADMINISTRATIVE CODE – N1
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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

E. CHAPTER 3 – ADMINISTRATIVE CODE – N2
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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

F. CHAPTER 3 – ADMINISTRATIVE CODE – N3
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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G. CHAPTER 3 – ADMINISTRATIVE CODE – N4
SPONSORED BY COUNCILORS CRAGO, AND CHENEY

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

H. CHAPTER 3 – ADMINISTRATIVE CODE – N5
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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

I. CHAPTER 3 – ADMINISTRATIVE CODE – N6
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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

J. CHAPTER 3 – ADMINISTRATIVE CODE – N7
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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

K. CHAPTER 3 – ADMINISTRATIVE CODE – N8
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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

L. CHAPTER 3 – ADMINISTRATIVE CODE – N9
SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

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

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.

Mary Hebbard, 97 Spruce Lane: She continued her discussion regarding the administrative code. She spoke against Item 13.A.6. and urged the Council not to support.

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

9. CITY MANAGER'S REPORT

City Manager Joyal said the City is working the Greater Dover Chamber of Commerce with hosting the Citizen Leadership Academy. He introduced Jeremy Larose to speak to the Council regarding the Community Trail Program.

Mr. Larose gave an overview of the Community Trail project to the Council.



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Councilor Weston asked about the appeal the Local Government Center (LGC) has filed. City Manager Joyal gave an overview of the issue with the Council. He said it was his understanding that the LGC has chosen to appeal the decision. He has heard that it has been denied. He said the LGC will be proceeding to bring it before the Supreme Court. He said the LGC has incurred \$1.9 million in legal fees and are trying to recoup those expenses from the insurance company. He said he has asked the LGC how it will affect the City's insurance rates going forward, and is still waiting for a response.

Councilor Weston asked for the status of the insurance company.

He said he read it was slated for trial in December of 2013.

Councilor Cheney asked if the City Manager has completed the salary and benefits report.

City Manager Joyal said he was still working on it, because the tax rate setting process has taken precedence.

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

Vote: 9/0.

10. APPROVAL OF MINUTES

A. September 5, 2012 – Workshop

B. September 12, 2012 – Regular Meeting

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

Vote: 9/0.

11. MAYOR'S REPORT

Mayor Trefethen discussed the Dover Business and Industrial Development Authority (DBIDA) meeting. He said they are working on a proposal to create another industrial park. He attended the Greater Dover Chamber of Commerce annual meeting.

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

Vote: 9/0.

12. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2nd READING

1. CHAPTER 3 – ADMINISTRATIVE CODE

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

Councilor Crago moved for its adoption; seconded by Councilor Cheney.

Councilor Crago said he and Councilor Spuler met with the City Manager on September 17, 2012 to discuss what it would take for the City Manager to recommend the ordinance changes. He said he has requested a list from the City Manager of the changes and the sponsoring Councilors will be meeting with him tomorrow to discuss them.

City Manager Joyal added that the reason he wouldn't recommend the changes that were put on the agenda was because it was not legal. He said he believed they cannot go back



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to the 2010 code. He said he would be making a list of the changes so that he can recommend the changing, and he will provide the complete wording of the 2010 version of the administrative code.

Councilor Hooper discussed the process and how these Chapters were not brought before the Ordinance Codification and Verification Committee, and felt that the process was flawed. She said she will be voting no on all these ordinances until the proper process is followed.

Councilor Weeden suggested that the Council move these ordinances to a third reading and substitute as a whole the changes they come up with in working with the City Manager.

Councilor Weston asked if there were any other violations of the State Law or Charter since 2010.

City Manager Joyal said the existing code doesn't list the duties of positions.

Councilor Weston talked about the changes to the Boards and Commissions, making sure the new ones are included, and suggested that they keep it separate.

Councilor Garrison said he questions the behind the scenes actions, and is glad to see some of the sponsoring Councilors were willing to meet with the City Manager.

Mayor Trefethen said there should at least go to a third reading. He agreed that these should go before the Ordinance Codification and Verification Committee, and he doesn't believe that it will be resolved before the next regular meeting of the City Council. He felt there would be substantial changes, which would require another set of public hearings. He suggested the Council vote no to all of these ordinances and reintroduce them as a first reading.

Councilor Cheney moved to refer these to a third reading for the next regular meeting; seconded by Councilor Crago.

Councilor Cheney started a discussion on whether or not they will need another public hearing. She said they will deal with the issue of another public hearing at that time.

Councilor Weeden said he would support referring these to a third reading with a date uncertain.

Councilor Hooper said she still questioned the process and didn't understand why these couldn't come before the Ordinance Codification and Verification Committee.

Councilor Crago asked when they formed the Ordinance Codification and Verification Committee.

Councilor Garrison agreed that they should go before the Ordinance Codification and Verification Committee. He felt they should vote to refer to a third reading with a date uncertain.

Councilor Weston said to bring this before the Ordinance Codification and Verification Committee again would be duplication of efforts.

Councilor Cheney said she didn't believe it needed to go before the Ordinance Codification and Verification Committee.

Councilor Weeden said he wouldn't be supporting the motion, because he felt it should be to a date uncertain.

Mayor Trefethen said they needed to slow down and do it right.

Councilor Crago said he wouldn't support the motion, but would support to a date uncertain.

Councilor Weston asked Councilor Cheney to consider changing it to a date uncertain.



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Councilor Cheney withdrew her motion. Councilor Crago withdrew his second. Councilor Cheney moved to refer to a third reading to a date uncertain; seconded by Councilor Crago.

Vote: 7/2; Passed. Councilors Garrison and Hooper were opposed.

2. CHAPTER 5, BOARDS, COMMISSIONS AND COMMITTEES

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

Councilor Crago moved to adopt; seconded by Councilor Cheney.

Councilor Crago gave an overview and addressed concerns of the Ordinance to the Council.

Councilor Weeden talked about the issue of the Administrative Code being regulated by the City Manager, and his intention as a State Representative to bring a Legislative Service Request (LSR) to strike that from the Statute.

Councilor Cheney moved to combined Items 12.A.2 through 12.A.12. and refer them all to a third reading to a date uncertain; seconded by Councilor Crago.

Vote: 7/2; Passed. Councilors Garrison and Hooper were opposed.

3. CHAPTER 3 – ADMINISTRATIVE CODE – N0

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

4. CHAPTER 3 – ADMINISTRATIVE CODE – N1

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

5. CHAPTER 3 – ADMINISTRATIVE CODE – N2

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

6. CHAPTER 3 – ADMINISTRATIVE CODE – N3

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

7. CHAPTER 3 – ADMINISTRATIVE CODE – N4

SPONSORED BY COUNCILORS CRAGO AND CHENEY

8. CHAPTER 3 – ADMINISTRATIVE CODE – N5

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

9. CHAPTER 3 – ADMINISTRATIVE CODE – N6

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

10. CHAPTER 3 – ADMINISTRATIVE CODE – N7

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

11. CHAPTER 3 – ADMINISTRATIVE CODE – N8

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN



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12. CHAPTER 3 – ADMINISTRATIVE CODE – N9

SPONSORED BY COUNCILORS CRAGO, CHENEY, AND WEEDEN

B. ORDINANCES IN THE 3rd READING – None

C. RESOLUTIONS – None

13. NEW BUSINESS

A. CONSENT CALENDAR

1. **RAFFLE – Cocheco Quilt Guild**
2. **PARADE – Dover Knights of Columbus Council 807**
3. **ROAD RACE – Moms on the Run**
4. **ROAD TOLL – Angels of Hope American Cancer Society Relay for Life**
5. **TAG – Dover Youth Football League Inc.**

6. RESOLUTION: B13009- EXPANSION OF DOWNTOWN FORM BASE CODE ACTION PLAN PROFESSIONAL CONSULTING SERVICE & ACCEPTANCE OF GRANT

SPONSORED BY MAYOR TREFETHEN BY REQUEST

7. RESOLUTION: B13013 SEGREGATION AND RECYCLING OF CONSTRUCTION DEBRIS AND DEMOLITION WASTE

SPONSORED BY MAYOR TREFETHEN BY REQUEST

8. CONSULTING SERVICES FOR GRIFFIN & IRELAND WELL STUDY

SPONSORED BY MAYOR TREFETHEN BY REQUEST

COMMITTEE REPORTS

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

Deputy Mayor Carrier moved for the adoption of the Consent Calendar; seconded by Councilor Garrison.

Mayor Trefethen asked the Council if they had items they would like pulled for further discussion.

Councilor Garrison asked to pull the Legislative Liaison Report.

Deputy Mayor Carrier asked to pull the Appointments Committee.

Councilor Weston asked to pull Item #13.A.6.

Councilor Cheney asked to pull Item #13.A.8.

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

Roll Call Vote: 9/0.



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Deputy Mayor Carrier moved to adopt Item #13.A.6.; seconded by Councilor Weston. Councilor Weston asked City Planner Steve Bird to address the concerns surrounding this resolution.

Planner Bird gave an overview of the resolution to the Council.

Councilor Cheney said she wouldn't be supporting this resolution, because of the definitions of housing.

Mayor Trefethen clarified that this had nothing to do with Agenda 21.

Roll Call Vote: 6/3; Passed. Councilors Cheney, Crago, and Weston were opposed.

Vote was reconsidered during Council Matters of Interest.

Deputy Mayor Carrier moved to adopt Item #13.A.8.; seconded by Councilor Cheney.

Councilor Cheney said she liked this approach and would be supporting this resolution.

Roll Call Vote: 9/0.

Councilor Garrison gave an overview of the Legislative Liaison Report.

Deputy Mayor Carrier moved for the approval of the Legislative Liaison Report.

Vote: 9/0.

Deputy Mayor Carrier gave an overview of the Appointments Committee Report, and listed the following reappointments for the Council's approval:

- Pool Advisory Committee
Suzanne Medbery, Alternate member
Suzanne Petersen, Regular member
- Library Board of Trustees
Ann Schultz, Regular member
- Parking Commission
Jack Buckley, Regular member
Charles Reynolds, Regular member
- Solid Waste Advisory Commission
Douglas Kemp, Regular member
- Arena Commission
Dennis Munson, Regular member
- Transportation Advisory Commission
Dennis Munson, Regular member

Deputy Mayor Carrier moved to approve appointments; seconded by Councilor Garrison.

Vote: 9/0.



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B. RESOLUTIONS

1. RELEASE OF LEGAL OPINION DATED AUGUST 30, 2012 SPONSORED BY MAYOR TREFETHEN

Mayor Trefethen moved for its approval; seconded by Councilor Hooper.
Councilor Weeden said he supported releasing the opinions, but felt now was not the right time.

Councilor Cheney said she believed they could be used against the City, and didn't support their release.

Councilor Garrison said this was exactly the right time to release these legal opinions.

Councilor Spuler said he didn't agree with who obtained the legal opinions.

Councilor Crago talked about both sides should be represented.

Councilor Hooper said the opinion is based on law and not sides. She felt that if the Council wants to be open and transparent they don't get to pick and choose.

City Manager Joyal said the Council can appoint a lawyer to give an opinion.

Councilor Crago talked about recommending a counselor to the City Manager and the response he received that the attorney wasn't appropriate.

Councilor Crago moved to table this resolution to a date uncertain; seconded by Councilor Weeden.

Vote: 5/4; Passed. Mayor Trefethen, Deputy Mayor Carrier, Councilors Garrison and Hooper were opposed.

2. RELEASE OF LEGAL OPINION DATED AUGUST 24, 2012 SPONSORED BY MAYOR TREFETHEN

Mayor Trefethen moved for its approval; seconded by Councilor Hooper.

City Manager Joyal referred to Councilor Crago's comments about referring an attorney and talked about getting a municipal attorney for an opinion, because they were experts.

Councilor Weeden moved to table this resolution to a date uncertain; seconded by Councilor Crago.

Vote: 5/4; Passed. Mayor Trefethen, Deputy Mayor Carrier, Councilors Garrison and Hooper were opposed.

3. RELEASE OF LEGAL OPINION DATED SEPTEMBER 4, 2012 SPONSORED BY MAYOR TREFETHEN

Mayor Trefethen moved for its approval; seconded by Councilor Weeden.

Councilor Weeden moved to table this resolution to a date uncertain; seconded by Councilor Crago.

Vote: 5/4; Passed. Mayor Trefethen, Deputy Mayor Carrier, Councilors Garrison and Hooper were opposed.



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**4. SKATEBOARD PARK RELOCATION FUNDING
(TO BE REFERRED TO A PUBLIC HEARING ON OCTOBER 10, 2012, AND A
VOTE TO BE HELD ON NOVEMBER 14, 2012)
SPONSORED BY MAYOR TREFETHEN, DEPUTY MAYOR CARRIER, AND
COUNCILOR WEEDEN**

Deputy Mayor Carrier moved to substitute as a whole and refer to a public hearing on October 10, 2012; seconded by Councilor Weedon.
Mayor Trefethen gave an overview of the resolution to the Council.
Vote: 9/0.

Councilor Weedon moved to suspend the rules to continue the meeting past 10:30 pm to complete the agenda; seconded by Councilor Crago.
Roll Call Vote: 9/0.

Council discussed the resolution and whether or not this needed to be decided at this time.

Councilor Garrison moved the question to refer to a public hearing; seconded by Deputy Mayor Carrier.
Roll Call Vote: 9/0.

**5. CITY MANAGER EVALUATION
SPONSORED BY MAYOR TREFETHEN**

Deputy Mayor Carrier moved for its adoption; seconded by Councilor Weedon.
Mayor Trefethen said he just completed the resolution's summary of results this morning, and it hasn't gone through the proper process and signatures weren't received from the General Legal Counselor, Finance Director, or City Clerk. He said there was no legal or funding issue and felt it wasn't a problem.
Councilor Weedon asked the General Legal Counselor and City Clerk if they approve it. City Clerk Lavertu said she hasn't had a chance to read it, but if she saw a problem she would email the Council.
General Legal Counselor Krans said he approved it.
Vote: 9/0.

C. ORDINANCES IN 1ST READING – None

14. COUNCIL CORRESPONDENCE

A. COMCAST LETTER DATED SEPTEMBER 5, 2012

Deputy Mayor Carrier moved to accept correspondence and place on file; seconded by Councilor Hooper.
Vote: 9/0.



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15. COUNCIL MATTERS OF INTEREST

Councilor Weeden moved to reconsider his vote on Item 13.A.6.; seconded by Councilor Spuler. Vote: 5/4; Passed. Mayor Trefethen, Deputy Mayor Carrier, Councilors Garrison and Hooper were opposed.

Councilor Weeden said he made the wrong decision, and he wanted the opportunity to change his vote.

Roll Call Vote: 5/4; Passed. Councilors Cheney, Crago, Weeden and Weston were opposed.

Councilor Garrison talked about Councilor Weeden's comment that he was going to submit an LSR. He felt this should be brought before the Council for a vote of whether or not to support, since it would have a direct impact on Dover.

Councilor Weeden said he understood Councilor Garrison's concern, and said this was just one of eight LSRs he submitted. He said as a State Representative that he will bring this forward.

Councilor Spuler spoke about the Skateboard Park. He also thanked the City Manager for the new procedures with the resolutions and ordinances where the signatures are shown.

Councilor Crago asked what LSR stands for.

Councilor Weeden said it meant Legislative Service Request.

Councilor Crago read a statement to the Council and citizen's of the Dover.

Councilor Cheney discussed the procedures for the agenda packets and the recording process. She felt it was after it has been passed that the signatures are required.

Mayor Trefethen asked the City Manager Goals be submitted to him no later than Tuesday. He also reminded the Council to contact the School Board Liaison, Councilor Hooper, if they had any questions for the School Board.

16. ADJOURNMENT

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