



CITY OF DOVER

CITY COUNCIL - AGENDA

Meeting Type: **Regular Meeting**
Meeting Location: **Council Chambers, City Hall**
Meeting Date: **Wednesday, February 27, 2013**
Meeting Time: **7:00 pm**

1. **CALL TO ORDER**
2. **MOMENT OF SILENCE**
3. **PLEDGE OF ALLEGIANCE**
4. **ROLL CALL ATTENDANCE**
5. **PROCLAMATIONS/AWARDS – None**
6. **APPROVAL OF AGENDA**
7. **PUBLIC HEARINGS –**
 - A. **TRANSFER TO PARKING CAPITAL RESERVE FUND FISCAL YEAR 2013 BUDGET AMENDMENT #2 – APPROPRIATION FOR TRANSFER TO PARKING CAPITAL RESERVE FUNDS (REQUIRES A 2/3 COUNCIL MAJORITY VOTE)**
SPONSORED BY MAYOR TREFETHEN BY REQUEST
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. **February 6, 2013 – Workshop Session**
 - B. **February 6, 2013 – Public portion of Non-Public Session**
 - C. **February 6, 2013 – Non-Public Session – Not Sealed**
 - D. **February 13, 2013 – 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 – None**
 1. **TRANSFER TO PARKING CAPITAL RESERVE FUND FISCAL YEAR 2013 BUDGET AMENDMENT #2 – APPROPRIATION FOR TRANSFER TO PARKING CAPITAL RESERVE FUNDS (REQUIRES A 2/3 COUNCIL MAJORITY VOTE)**
SPONSORED BY MAYOR TREFETHEN BY REQUEST



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13. NEW BUSINESS

A. CONSENT CALENDAR

1. **BLOCK PARTY – Dover Main Street**
2. **RESOLUTION: PURCHASE OF PORTABLE EMERGENCY GENERATOR VIA NJPA**
SPONSORED BY MAYOR TREFETHEN BY REQUEST

COMMITTEE REPORTS

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

B. RESOLUTIONS

1. **RESOLUTION: AMENDMENT OF BON AMI LEASE FOR McCONNELL CENTER**
SPONSORED BY MAYOR TREFETHEN BY REQUEST

C. ORDINANCES IN 1ST READING – None

14. COUNCIL CORRESPONDENCE – None

15. COUNCIL MATTERS OF INTEREST

16. ADJOURNMENT

CITY MANAGER'S REPORT



February 27, 2013

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

Dan Barufaldi

Summary:

Economic activity in the region continues to grow modestly, according to business contacts. Most retailers and tourism industry players cite year-over-year increases in demand. Aside from some companies with industry specific or customer specific issues, local manufacturers also report growth in year-to-year sales. Similarly, consulting and advertising firms are ahead of a year earlier. One local computer repair business closed its doors this month. Commercial real estate contacts remain negative. Office leasing is slow and demand for commercial real estate loans and pipelines for commercial construction activity, while active locally, remain well below pre-recession rates. Residential real estate markets continue to recover with both sales and prices above year earlier rates. Locally, housing inventory is low driving higher prices and fewer days on the market. Overall, pricing in other sectors remains stable with specific hiring dependent on demand growth; as a result, most firms are doing little or no hiring. Despite current concerns re "fiscal cliff" and healthcare costs uncertainties, most contacts expect continued modest growth in 2013. Dover unemployment rate dropped from 4.6% to 4.5% in the last month.

Retail and Tourism:

With one or two exceptions, retail contacts report December year-over-year sales rising from zero to 7%. Demand remained strong for clothing, shoes, and furniture. In one weekend in January, L.L. Bean on-line sales were averaging \$1 million per hour. Responding retailers intend to hold selling prices steady based on an absence of wholesale price increases. Retailers are expecting low single digit sales growth in 2013.

The tourism industry ended Q4, 2012 on a high note, establishing new records for hotel room occupancy rates and revenues. Strong domestic and international corporate and leisure travel account for much of this performance. Restaurants saw less spending on corporate entertaining and end-of-year holiday events. Advance hotel bookings locally indicate the strong trend in business travel will continue, leading to the expectation that occupancy rates in 2013 will hold level, somewhat off the peak established in 2012.

Manufacturing and Related Services:

Manufacturing in the Region continues to expand at a modest pace, according to responding firms. A majority report higher Q4 2012 sales than Q4, 2011 sales, although some gains are quite modest. Semi-conductor sales appear flat to slightly in decline while point of purchase electronics are doing well and growing. Aerospace firms are reporting strong sales for new aircraft parts, but after-market sales are off. The chemical industry indicates that while sales by weight have dropped, the pricing picture has improved so much that sales in dollars are up. Frozen fish sales continue weak. The "fiscal cliff" was an explicit problem for a computer firm that sells almost exclusively to the Defense Department due to worries about sequestration.

Only a minority of firms report significant hiring, but a few with highly improved sales are while those in slow growth industries are not. Defense Department suppliers are not hiring and some are talking about cuts of up to 10%

In this sector, highly skilled specialty skilled jobs are in demand; low skilled jobs are often fraught with candidates that fail drug tests. Many new job takers quit right after taking the job giving rise to speculation that these hiring problems stem from behaviors developed during extended periods of unemployment.

As with employment, capital spending is slow except for firms in growth industries. One aerospace and automotive parts maker reports not spending their capital expenditure budget allocations in 2012.

The outlook remains somewhat uncertain for most contacts in this sector.

Selected Business Services:

Consulting and advertising sectors report generally positive results for Q4, 2012, most with modest growth. A minority report some leveling off. Marketing and advertising report a Q4 uptick and express confidence that conditions have finally stabilized after the recession. Healthcare related services report a robust demand for services related to IT implementation and drug-impacts research. Firms associated with the pharmaceutical industry have experienced slow growth. Economic consulting remains strong because of high levels of high stakes litigation. Management and Strategy Consultants report flat business conditions as clients uncertain about fiscal policy and the macro-economy remain reluctant to invest in consulting services.

Little to no cost increases are reported with prices staying unchanged except where increased healthcare costs have required it. Zero to single digit hiring growth is experienced and anticipated for 2013 as hiring is tied directly to demand in this sector. The sector remains cautiously optimistic for 2013.

Commercial Real Estate:

Across most of our region, leasing activity in Q4, 2012 was very light, driven by a combination of seasonal factors and uncertainty stemming from "fiscal cliff" negotiations. Although office fundamentals remain flat regionally, some glimmers remain locally in a pretty drab landscape. Commercial real estate fundamentals were roughly flat in recent weeks amid light leasing activity. Locally, a large lease client for 100,000sf was lost due to the fiscal cliff and healthcare cost uncertainties that caused the company to put off the expansion move and extend their lease at their present location until things got sorted out. While we have some positive movement locally in this sector, commercial real estate remains in the doldrums regionally and nationally with few exceptions. Prices continue very much on the low side. Apartment rentals are up with limited inventories pushing prices significantly higher as first time home buyers are experiencing difficulties in acquiring mortgage financing under current banking regulations and are forced to remain renters.

Banks are awash with cash that they have difficulty lending due to tightened regulatory requirements. Nationally, bank deposits reached \$2 trillion more than bank loans. A majority of contacts note that business sentiment soured recently, with the national election results and the fiscal situation cited as key factors. The outlook for commercial real estate turned more pessimistic on balance in light of these same factors and also risks to growth stemming from the Eurozone debt debacle and the slowdown of the Chinese economy. Due to the Sandy effect on New England insurance rates for commercial structures on the Eastern Seaboard, it is anticipated this will restrain development in some areas.

Residential Real Estate:

Locally, contacts report strong year-over-year growth in sales in Q4, 2012 in both single family and condo markets. This is attributed to low interest rates, prices starting to rise, rising rents, and a quickly diminishing inventory. Contacts say that buyers have become more confident about buying a home as economic conditions continue to improve. The median sale price of homes year-over-year rose in Dover and is expected to rise another 6-7% in 2013.

Non-local content contains excerpts 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 LEGAL SUPPORT SERVICES FOR THE MONTH: January 2013

	Current Month	FY2013	FY2012	FY2011
Legal Matters/Questions Handled	35	193	360	245
Document Creation & Review	10	95	126	140
Right to Know Requests Processed	4	26	61	40
Resolutions	2	20	23	-
Ordinances	0	5	12	-

SIGNIFICANT DEVELOPMENTS, TRENDS AND MATTERS:

Right to Know requests pursuant to RSA 91-A in January:

- Fond du Lac, WI – delinquent taxes
- Concord, NH – Municipal Coalition
- Cypress, CA – municipal credit card usage
- Rochester, NH – recycling agreement

Assistance to the City Council: drafting/review of resolutions and ordinance revisions; attendance at meetings; virtual meetings

Assistance to School: tax exempt form, employee termination, orderly conduct of meetings bylaws

Assistance to Community Services Department: welfare – fire relocation expenses, trees issue, wetlands violation, discrimination

Assistance to the Planning Department: definition of tenancy for rooming house; cell tower; public improvements; TIF district

Assistance to Executive: LEAN processes; road acceptance processes; health care reform; new right-to-know law; appointment oath; LDA amendment; Legislation NH; enforcement of ordinances

Assistance to Police: subpoena; BCC start

Assistance to the City Manager: review of documents for signature; review of litigation; 91-A requests

The role of the Office of General Legal Counsel is to represent the corporation as a whole including the City Council, the City Manager and the Departments. The focus of the Office of General Legal Counsel is to avoid legal problems for the City by advising staff members, reviewing legal documents, addressing citizen concerns proactively, providing guidance to the boards, commissions and committees of the City and assisting City Councilors in the performance of their duties. The goal is to save money for the taxpayers and the City of Dover. A further role of General Legal Counsel is to respond to matters involving litigation. This role involves contacts with opposing legal counsel on a regular basis, the attendance at hearings and the trial of matters before the Courts.

The use of outside counsel to handle specialty matters continues and consists of counsel involved in environmental matters(Attorney Peltonen) 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: Workshop Session
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Meeting Time: **7:00 pm**

1. CALL TO ORDER

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

Councilor Spuler led the Pledge of Allegiance.

4. ROLL CALL ATTENDANCE

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

Absent: Councilor Garrison and Councilor Weeden.

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

5. DISCUSSIONS

A. LEGISLATIVE BRIEFING

Mayor Trefethen asked the State Senator and State Representatives to introduce themselves, talk about committees they are working on. He asked the Councilors to wait with their questions until the end.

Senator David Watters: He thanked the Council and said he was honored to serve Dover in the State Senate. His committee assignments include Executive Departments & Administration and Transportation. He said his primary concerns were jobs and economic development in New Hampshire. He said the Senate just passed a Senate Bill to double the research and development tax credit. He is co-sponsoring the complete rewrite of the Business Corporation Act. He is co-sponsoring a bill to streamline permitting for development. He is also working on wastewater treatment. He said the budget is very tough. He said the Governor has stated that there will be no new taxes, but there will be an increase in some fees. He spoke about gambling and using the revenue for education and roads. He spoke about Medicaid enhancements of managed care.

Representative Marcia Pelletier: She thanked the Council and said she has served as Representative on and off for the past 20 years. She spoke about the County and said she was Chairperson of the committee in charge of revenues, capital expenditures, and special projects. She is part of the Legislative Administrative Committee and she explained what they're working on.

Representative Greg Burdwood: He thanked the Council and said he was honored to serve the citizens of Dover and Somersworth. He was newly elected and spoke about his initial impressions. He said he serves on Fish & Game and Marine Resources, which was a great learning experience.



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Representative James Verschueron: He said he's newly elected and is watching and learning to the process. He serves on the Municipal and County Government Committee. He said he was interested in school funding issues. He said he has spoken with Superintendent Briggs Badger and will be looking into the adequacy funding issue where Dover is being shortchanged.

Representative William Baber: He said he's newly elected and felt the environment in the capitol was positive. He is serving on the Science, Technology and Energy Committee, which is a good fit for his background.

Representative Janice Gardner: She said she's newly elected. She is serving on the Environment and Agriculture Committee.

Representative Dot Hooper: She thanked Ward 4 for putting her back into the job. She said it is rewarding. She serves on the Municipal and County Government Committee and discussed several issues being discussed. She said it's in the committees where the work gets done and she's proud of the one she serves on.

Representative Peter Bixby: He said he's newly elected. He is serving on the Environment and Agriculture Committee, which was his first choice. He spoke about the House Bills that he is co-sponsoring.

Representative Peter Schmidt: He said he has served for 11 years. He serves on the Executive Departments and Administrative Committee. He discussed the many issues coming before the Legislature.

Mayor Trefethen told the Senator and Representatives that Councilor Garrison was the Council Legislative Liaison. He said the City would like less downshifting to the local level. He said out of every dollar the State saved the City had to spend \$0.80 to cover the services and in some areas the full 100%. He asked for their support with the water quality issue in Great Bay. He asked that they address the disparity in the school adequacy funding for Dover and other communities affected by the cap. He asked that they support State aid for infrastructure, House Bill 623. He asked Senator Watters further discuss the streamlining in the permitting process and how it might affect Dover if it passed.

Senator Watters said he will send the Senate Bill to the Mayor. It would allow for a one stop permit process with a time limit. He said it was something that would be opted into by the developer.

Mayor Trefethen asked about the boat ramp at Hilton Park being redone. He asked that Councilor Burdwood keep an eye on that issue.

Councilor Crago spoke about the Great Bay Estuary EPA issue with wastewater treatment. He asked how the Council can help them to get the EPA to reconsider or reevaluate the science.



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Senator Watters said the City has been very effective taking the lead with this issue. He said he has delayed the hearing for a few weeks to give time for more contact. He said there is a new EPA Director.

Representative Schmidt said he has been looking into this since last June. He said Newmarket and Exeter have negotiated with EPA. He said EPA has legal obligations and does have the science behind it.

Councilor Cheney discussed the presentation the Council received regarding the Great Bay study and that the EPA restrictions were unattainable.

Deputy Mayor Carrier asked Representative Pelletier about revenue stream and gambling.

Representative Pelletier said they were issues that were being brought up.

Councilor Hooper said she has seen several issues regarding revenue and gambling, but has seen nothing that overcomes the social issues that would arise.

Councilor Weston asked Councilor Hooper for clarification regarding a bill that would affect City Clerks.

Councilor Hooper said there was a bill where City Clerks have to be elected by the elected body, and a resident of the City. She said she planned to speak against it.

Councilor Weston started a discussion regarding the tax credit vouchers to private schools. She said this would negatively impact Dover public school systems. She also talked about changing the formula for school adequacy funding.

Representative Verschueren said the public hearing was yesterday, and voiced his opinion, but said very few came to the hearing. He said he suspects the Bill will pass, which would favor the City. He also spoke about casinos being considered in the north country and Salem.

Representative Schmidt also talked about the vouchers and said the House might let the law stand because they don't want to appear to be going back and forth.

Councilor Cheney said she supported keeping the voucher system in place, because it didn't affect that much of the budget. She spoke about gambling and how it should be addressed.

She said the Council has requested a peer research group to study the Great Bay Estuary issue.

Councilor Hooper explained the process of Bills. She said the citizens have to go to Concord to testify. She recommended that they look at the State Representative's website to view upcoming bills.

Councilor Weston referred to the citizen that wishes to speak during Citizen's Forum regarding transportation and State funding. She wondered if there was anything they can do to help her.

Mayor Trefethen said the Council will be sending their general position on legislative policies to them.



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CITIZEN'S FORUM

Citizens are invited to speak on the subject matter of the Workshop. Statements shall be limited to five minutes.

Shellie Lemilin: She spoke about COAST bus lines and her inability to use it because they stop the routes by her house. She stated it would cost the taxpayers more for alternative transportation. She talked about the condition of the sidewalks because of the snow. She asked for their support for funding the FastTrans.

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

6. ADJOURNMENT

Deputy Mayor Carrier moved to adjourn; seconded by Councilor Weston.
Vote: 7/0.



CITY OF DOVER

CITY COUNCIL MINUTES

Meeting Type: Public Meeting
Meeting Location: City Manager's Office 288 Central Avenue Dover NH
Meeting Date: February 6, 2013
Meeting Time: 8:45 PM

Present: Mayor Dean Trefethen, Deputy Mayor Robert Carrier, Karen Weston, Catherine Cheney, Dorothea Hooper, Edward Spuler, and Michael Crago. Councilor Michael Weeden and William Garrison were absent.

Others present: Michael Joyal, Allan Krans, Christopher Parker and Daniel Barufaldi.

Mayor Dean Trefethen called the meeting to order at 8:45 PM.

Upon a motion made (Hooper) and seconded (Weston), the Councilors voted on a roll call vote (7-0) to enter into nonpublic session to discuss matters involving the sale of real property owned by the City of Dover.

The Council recessed to non-public session.

At 9:58 PM, the Council resumed the public meeting.

Upon motion made, seconded and approved unanimously, the Council adjourned at 9:59 PM.

Allan B. Krans
General Legal Counsel
2/7/13



CITY OF DOVER

CITY COUNCIL MINUTES

Meeting Type: Non-public session
Meeting Location: City Manager's Office 288 Central Avenue Dover NH
Meeting Date: February 6, 2013
Meeting Time: 8:46 PM

NON-PUBLIC SESSION

Present: Mayor Dean Trefethen, Deputy Mayor Robert Carrier, Karen Weston, Dorothea Hooper, Catherine Cheney, Edward Spuler and Michael Crago. Councilors Weeden and Garrison were absent. A quorum was present.

Others present: Michael Joyal, Allan Krans, Christopher Parker, Daniel Barufaldi.

The City Manager presented introductory remarks stating the session was called to discuss the sale of the parcel involved in the waterfront development project. The City Manager provided a review of the efforts of councilors to perform due diligence in the past several weeks to learn about the Dickinson proposal seeking an extension of the Land Disposition Agreement (LDA). The City Manager informed the councilors of a meeting earlier in the day among Councilors Cheney, Crago and Weston with the developer, Mark Dickinson and his attorney. Also present at the meeting was City Manager Joyal, Planning Director Parker and Attorney Krans. This meeting was held to review proprietary financial information from Dickinson Development.

Councilor Michael Crago stated he seeks a solution allowing the waterfront development to obtain financing and to succeed. He stated he was in favor of providing an extension of the agreement if the extension had the following components:

- Payment of \$25,000 by Dickinson
- Release of the \$100,000 by Dickinson
- Extension of 15 months to allow an equity investor to become involved with Mr. Dickinson followed by a 24 month permitting period during which \$10,000 per month would be paid by the Developer
- Doubling of the number of apartment units along the river replacing the single family units to make the project more likely to attract financing with a possibility of previous potential investors reconsidering the project due to the change in design

Councilor Crago stated he acknowledges the key role of the Cochecho Waterfront Development Advisory Committee (CWDAC) in approving changes to the design of the project especially the replacement of single family residential units along the river with more apartments. He stated Dickinson will be obligated to return to CWDAC.

Councilor Crago stated he reviewed in detail the expenditures of Dickinson Development in the amount of \$1,059,000.00 at a meeting today by reviewing not only the summary of expenditures, but also the general accounting ledger of Dickinson Development showing the checks written to various architects, engineers, legal advisors, the City of Dover/DHA and others. Councilor Crago stated he thought Dickinson had been truthful with the disclosures.



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Deputy Mayor Robert Carrier stated he thought the councilors had performed due diligence and that he supported the extension along the same lines as Councilor Crago.

Councilor Cheney asked questions about whether Tax Increment Financing (TIF) is planned by Dickinson for the waterfront as part of the Dickinson plan and whether Dickinson has requested waivers of fees normally associated with Planning Board approval. The City Manager responded Dickinson Development has neither requested a TIF nor the waiver of fees. Councilor Cheney stated she reviewed the financial ledgers of Dickinson Development during the meeting earlier in the day.

A general discussion among the councilors ensued about the quality of the apartments proposed by Dickinson Development. Mayor Trefethen responded there is no indication any residential unit on the waterfront will be the subject of Section 8 rent payments. The Mayor stated he has heard the rumor and there is no truth to the rumor.

Councilor Weston stated she has informed by Mr. Dickinson the apartments along the river will be renting in the vicinity of \$2,000 per month.

Councilor Crago stated he was informed by Dickinson the first occupancy if everything goes well may be in the Summer of 2016.

A general discussion among the councilors ensued regarding the necessity of Dickinson returning to seek the approval of CWDAC for design changes.

A general discussion among the councilors ensued regarding the sponsorship of a resolution to extend the provisions of the Land Disposition Agreement. A consensus formed indicating additional sponsors may be added in the event other sponsors want to join in a resolution. Councilors Crago, Weston and Spuler indicated they will be the initial sponsors of a resolution supporting an extension of time for Dickinson Development.

Councilor Hooper stated she is in favor of extending the LDA to allow Dickinson Development to continue the search for an additional equity investor.

Councilors Weston stated she met with Mr. Dickinson and his attorney today and several weeks ago to learn more about the project and the extension proposal. She stated she was encouraged by the meetings with Mr. Dickinson. She stated the City Manager and Attorney Krans were also present. Councilor Crago stated he also attended several weeks ago.



CITY OF DOVER

CITY COUNCIL MINUTES

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Mayor Trefethen stated he was satisfied with the due diligence performed by the councilors in this matter. He stated he favors an extension and wants an opportunity for all councilors who desire to be able to co-sponsor a resolution for extension.

The City Manager provided some statements about the process for amending the LDA, including the statement the design changes should be returned to CWDAC for consideration.

A discussion ensued regarding sealing the minutes. The City Manager recommended not sealing the minutes since the resolution for extension will appear on the next agenda tomorrow.

Upon motion (Hooper) and second (Crago), the Council unanimously adjourned the non-public session to return to the public meeting. The meeting adjourned at 9:58 PM.

Allan B. Krans
General Legal Counsel
2/7/13



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1. CALL TO ORDER

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

Councilor Cheney 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 Hooper moved to add two School Board Reports; seconded by Councilor Garrison.

Vote: 9/0.

Councilor Cheney moved to add the Ordinance Codification and Verification Committee Report; seconded by Councilor Weston.

Vote: 9/0.

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

Vote: 9/0.

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

Vote: 9/0.

7. PUBLIC HEARINGS – None

8. CITIZEN'S FORUM

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

Human, 55 Union Street: He spoke about the membership for the Police Facility Building Committee, and their first meeting.

Jack Mettee, 56 Rutland Street, Chairperson of the Cocheco Waterfront Development Advisory Committee: He spoke about the resolution before the Council to amend the agreement with the Waterfront Developer. He urged the Council to vote in favor of the resolution.

Mark Moeller, 80 Cottonwood Drive, Vice Chairperson of the Dover Housing Authority: He spoke in favor of the Waterfront Land Disposition Agreement resolution.



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Daniel Barufaldi, 240 Blackwater Road, Dover Economic Development Director: He spoke in favor of the Waterfront Land Disposition Agreement resolution.

Shellie Lemelin, 9 Western Avenue: She spoke about her inability to use the paratransit service that COAST provides.

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

9. CITY MANAGER'S REPORT

City Manager Joyal said he submitted his report in writing. He spoke about the blizzard clean up, and thanked the staff for their effort to remove the snow. He listed several meetings he attended and participated in for professional development.

Councilor Crago asked for an update on the EPA Stormwater Runoff Permit.

City Manager Joyal spoke about the press release from the EPA, which was an update for a draft permit for those communities that operate stormwater systems.

Councilor Weston asked when he felt this would all happen.

City Manager Joyal said he felt there will be new permits within the next year.

Councilor Weston asked about the reestablishment of the Willand Pond well.

City Manager Joyal said he believed they were waiting for the permit from the DES, and they will have five years to put the infrastructure in place to support the well.

Councilor Weston asked for clarification on the financials for the Ice Arena.

City Manager Joyal clarified the financing for the Ice Arena.

Deputy Mayor Carrier thanked Community Services Director Doug Steele and his staff for the snow removal from the blizzard. He asked for some alternate avenues the Citizen's Forum speaker can use for handicap transportation.

City Manager Joyal said he will follow up with Ms. Lemelin.

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

Vote: 9/0.

10. APPROVAL OF MINUTES

A. January 23, 2013

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

Vote: 9/0.



CITY OF DOVER

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11. MAYOR'S REPORT

Mayor Trefethen thanked the Community Services and City Contractors for their work with snow removal. He said as Mayor he submitted his appointments for the Cocheco Waterfront Development Advisory Committee. Brian Gottlob, David Bamford, James Schulte, and Franklin Torr to serve another three year term, and Carla Goodknight to fill the vacancy. Councilor Cheney asked for clarification of the Citizen's Forum comment regarding the make up to the Police Facility Building Committee.

Mayor Trefethen said it was how the committees were formed that they were Mayoral appointments.

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 – None

B. ORDINANCES IN THE 3rd READING – None

C. RESOLUTIONS – None

13. NEW BUSINESS

A. CONSENT CALENDAR

1. **BLOCK PARTY – Stinilon International, LLC (Retroactive)**
2. **BLOCK PARTY – Greater Dover Chamber of Commerce – Apple Harvest Day**
3. **RAFFLE – Greater Dover Chamber of Commerce – Apple Harvest Day**
4. **ROAD RACE – Greater Dover Chamber of Commerce – Apple Harvest Day**
5. **ROAD RACE – Baby Rachel's Legacy**
6. **ROAD RACE – St. Mary Academy**

COMMITTEE REPORTS

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

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



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: **Regular Meeting**
Meeting Location: **Council Chambers, City Hall**
Meeting Date: **Wednesday, February 13, 2013**
Meeting Time: **7:00 pm**

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

Councilor Cheney asked to pull the Ordinance Codification and Verification Committee Report.

Councilor Weston asked to pull Item 13.A.1.

Councilor Hooper asked to pull the two School Board Reports.

Councilor Garrison asked to pull the Legislative Liaison Report.

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

Vote: 9/0.

Deputy Mayor Carrier moved for the approval of Item 13.A.1.; seconded by Councilor Weston.

Councilor Weston moved to amend application to the dates of February 23, and 24, 2013; seconded by Councilor Weston.

Vote: 9/0.

Mayor Trefethen asked for a vote on the block party event.

Vote: 9/0.

Councilor Hooper gave an overview of the two School Board Reports.

Deputy Mayor Carrier moved for the approval of the two School Board Reports; seconded by Councilor Crago.

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; seconded by Councilor Hooper.

Vote: 9/0.

Councilor Cheney gave an overview of the Ordinance Codification and Verification Committee Report.

Deputy Mayor Carrier moved for the approval of the Ordinance Codification and Verification Committee Report; seconded by Councilor Spuler.

Vote: 9/0.

B. RESOLUTIONS

1. WATERFRONT LAND DISPOSITION AGREEMENT AMENDMENT #1 SPONSORED BY COUNCILORS CRAGO, SPULER, AND WESTON

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

Councilor Crago moved to substitute as a whole; seconded by Councilor Weston.

Vote: 9/0.

Councilor Crago moved to amend the amended resolution the last sentence of the Now, Therefore, after the first Dover to insert: "for a total nonrefundable sum of \$125,000..." and after financing period: "beginning on the date when the Cocheco Waterfront Development Advisory Committee approves the concept adjustments that will facilitate Dickinson Development Corporation to pursue financing. Followed by up to a subsequent



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: **Regular Meeting**
Meeting Location: **Council Chambers, City Hall**
Meeting Date: **Wednesday, February 13, 2013**
Meeting Time: **7:00 pm**

24 month permitting period, during which a \$10,000/month non-refundable payment to the City of Dover, creditable to the purchase price, shall be made until closing and start of construction occurs. The City Manager is authorized to sign an amendment to the land disposition agreement incorporating the provisions above"; seconded by Councilor Weeden.

Vote: 9/0.

Councilor Spuler proposed an amendment to add to the original amendment "or three months from today's date, whichever come first"; seconded by Councilor Crago.

Vote: 9/0.

Councilor Crago asked that all Councilors sponsor this resolution to show support for the resolution; seconded by Councilor Spuler.

Councilor Cheney said she would not support adding her name to the resolution.

Vote: 8/1; Passed. Councilor Cheney was opposed.

Mayor Trefethen asked for a show of hands who would like to co-sponsor the resolution.

All Councilors raised their hands, but Councilor Cheney did so with reservations.

Mayor Trefethen asked for a vote on the amended resolution.

Vote: 9/0.

Councilor Weston asked for a copy of the amended resolution from the City Clerk.

2. DIRECTION ON PEDESTRIAN BRIDGE

SPONSORED BY MAYOR TREFETHEN AND DEPUTY MAYOR CARRIER

Deputy Mayor Carrier moved for its adoption; seconded by Mayor Trefethen.

Mayor Trefethen gave an overview of the resolution to the Council.

Vote: 9/0.

3. FINAL ACCEPTANCE OF HORNE STREET ELEMENTARY SCHOOL CONSTRUCTION

SPONSORED BY COUNCILOR WESTON AND DEPUTY MAYOR CARRIER

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

Councilor Weston gave an overview of the resolution to the Council.

Vote: 8/0. Councilor Cheney was absent from Council Chambers.

4. TRANSFER TO PARKING CAPITAL RESERVE FUND FISCAL YEAR 2013 BUDGET AMENDMENT #2 – APPROPRIATION FOR TRANSFER TO PARKING CAPITAL RESERVE FUNDS (REQUIRES A 2/3 COUNCIL MAJORITY VOTE) (TO BE REFERRED TO A PUBLIC HEARING ON FEBRUARY 27, 2013) SPONSORED BY MAYOR TREFETHEN BY REQUEST

Deputy Mayor Carrier moved to refer to a public hearing on February 27, 2013; seconded by Councilor Weeden.

Vote: 8/0. Councilor Cheney was absent from Council Chambers.

C. ORDINANCES IN 1ST READING – None



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: **Regular Meeting**
Meeting Location: **Council Chambers, City Hall**
Meeting Date: **Wednesday, February 13, 2013**
Meeting Time: **7:00 pm**

14. COUNCIL CORRESPONDENCE

- A. Save the Bridge Correspondence from Raymond Bardwell, dated January 24, 2013.**
- B. Letter from Jaclyn Cote to Councilor Spuler, dated November 16, 2012**
- C. Letter from xfinity, dated January 24, 2013**

Deputy Mayor Carrier moved to accept and place on file items 14.A. and 14.B.; seconded by Councilor Weston.

Vote: 8/0. Councilor Cheney was absent from Council Chambers.

Deputy Mayor Carrier moved to place on file item 14.C.; seconded by Councilor Weston.

Vote: 8/0. Councilor Cheney was absent from Council Chambers.

15. COUNCIL MATTERS OF INTEREST

Councilor Garrison talked about the creation of the District Security Committee for the Schools. Councilor Crago started a discussion regarding the stormwater requirements.

16. ADJOURNMENT

Deputy Mayor Carrier moved to adjourn; seconded by Councilor Weston.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 12.C.1.

Resolution Number: **R – 2013.02.13 - 14**
 Resolution Re: Transfer to Parking Capital Reserve Fund FY2013 Budget Amendment #2 – Appropriation for Transfer to Parking Capital Reserve Funds

WHEREAS: The City of Dover operates a Parking Activity special revenue fund to account for the collection of parking fees and fines and paying the operating expenditures for those activities; and

WHEREAS: The City Council, on September 9, 2010 adopted the establishment of a Parking Capital Reserve; and the City Council adopted the Fiscal Year 2013 city budget on June 6, 2012; and

WHEREAS: The Parking Activity special revenue fund audited fund balance as of June 30, 2012 is \$138,956; and

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

Pursuant to C6-6 of the City Charter, the FY13 Budget is amended to appropriate \$125,060.00 to transfer to the Parking Capital Reserve Fund. The source of funding for this transfer is the unassigned fund balance of the Parking Activity special revenue fund. The FY13 budget is amended as follows:

<u>Account</u>	<u>Description</u>	<u>Adopted Budget</u>	<u>Amendment</u>	<u>Amended Budget</u>
3213.1.210.42130.4918.00000	Parking Transfer -Reserve	\$115,146	\$125,060	\$240,206
3213.1.210.42130.3999.00000	Use of Fund Balance	\$0	\$125,060	\$125,060

REQUIRES A PUBLIC HEARING AND A TWO-THIRDS MAJORITY TO ADOPT PURSUANT TO DOVER CHARTER C6-6.

AUTHORIZATION

Approved as to Funding: *Daniel R. Lynch* 2/20/13
 Daniel R. Lynch
 Finance Director

Sponsored by: Mayor Dean Trefethen
 By Request

Approved as to Legal Compliance: *Allan B. Keans, Sr.*
 Allan B. Keans, Sr.
 City General Counsel

Recorded by: *Karen Lavertu* 2/21/13
 Karen Lavertu
 City Clerk



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 12.C.1.

Resolution Number: **R – 2013.02.13 - 14**
 Resolution Re: Transfer to Parking Capital Reserve Fund FY2013 Budget
 Amendment #2 – Appropriation for Transfer to Parking
 Capital Reserve Funds

DOCUMENT HISTORY:

First Reading Date: 02/13/2013	Public Hearing Date: 02/27/2013
Approved Date:	Effective Date:

DOCUMENT ACTIONS:

VOTING RECORD		
Date of Vote:	YES	NO
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 Weeden, 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 – 2013.02.13 - 14**
Resolution Re: Transfer to Parking Capital Reserve Fund FY2013 Budget Amendment #2 – Appropriation for Transfer to Parking Capital Reserve Funds

RESOLUTION BACKGROUND MATERIAL:

On September 9, 2010, the Dover City Council voted to establish a Capital Reserve Fund for the parking system's excess income with Resolution R-2010.09.08-122. That resolution addressed future excess income of the parking system, 90% of which on a quarterly basis would be transferred into the Parking Capital Reserve. However, the resolution did not address the existing fund balance in the Parking Activity Fund at that time.

At their October 31, 2012 meeting, the Parking Commission voted to recommend that 90% of the FY12 audited unassigned fund balance of the Parking Activity special revenue fund be transferred to the Parking Capital Reserve Fund. The June 30, 2012 audited unassigned fund balance of the Parking Activity special revenue fund is \$138,956 as reported on page 88 of the City's FY12 Comprehensive Annual Financial Report (CAFR).

The \$125,060 amount to be appropriated for transfer is 90% of \$138,956 fund balance.

Transferring this amount of fund balance from the Parking Activity special revenue fund would still maintain a minimum fund balance level of at least 5%, which is consistent with the City Council's adopted financial policy recommendations for special revenue funds' unassigned fund balance levels.

In accordance with RSA 34:3 and RSA 34:7 Payments into Funds, the adoption of this resolution shall require the City Treasurer, upon notice from the City Clerk that this resolution was adopted, to transfer \$125,060.00 into the Parking capital reserve fund from the Parking Activity special revenue fund.



CITY OF DOVER
13 FEB -7 AM 11:40

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: Dover MAIN Street

How Long Has Organization Been in Existence: since 1999

Nature of Organization: Religious, Educational, Charitable, Civic, Sports, Veterans, Fraternal or Political

Contact Person: MICHELE ALEXANDER Telephone: 603 978 9924

Address: 288 Central Ave DOVER NH 03820

Purpose of Permit: to host a Children's Festival using public spaces in Dover

Date of Event: June 1, 2013 Specific Time: _____

Location of Event: downtown sidewalks, pocket parks, city hall steps sidewalk, Rotary Pavilion

(Raffle Permit only)

Prize (s) To Be Awarded: _____

Amount of Donation: _____ Date of Drawing: _____ Specific Time: _____

Place of Drawing: _____

*** 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.

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: M. Alex Date: Jan 5, 2013

Police Department approval (AP) Date: 2/11/13

COUNCIL MEETING DATE: _____

Traffic Bureau OK (MES)
(attachment)
Revised (08/01/07)
[Signature]



DOVER POLICE DEPARTMENT

Dover, New Hampshire
Memorandum

TO: Chief Anthony F. Colarusso, Jr.
FROM: Sgt. Marn Speidel, Traffic Bureau
RE: Dover Main Street's Children's Festival permit
DATE: February 8, 2013

I have corresponded with the Michele Alexander, the Dover Main Street Program Director, regarding this event. It is scheduled for Saturday, June 1. There are no road closures planned. With your permission, the police department will assist by posting temporary parking restrictions to accommodate loading/unloading at a few of the event sites, and may assist with deploying event parking signs to help direct attendees to certain municipal lots.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.A.2.

Resolution Number: **R - 2013.02.27 - 16**
Resolution Re: Purchase of Portable Emergency Generator via NJPA

WHEREAS: The National Joint Powers Alliance is a Municipal Government Service Cooperative that has established several procurement contracts through bid solicitations. One such contract is for generators of various makes and models; and

WHEREAS: The NJPA has awarded an agreement with Caterpillar Inc until October 2013. The pricing terms and conditions are extended to non-profits, counties, cities, towns, schools, colleges and universities but does not lock them into exclusive buying with CAT; and

WHEREAS: Southworth Milton Caterpillar is the authorized CAT distributor for such equipment for the New England region and currently maintains all city and school CAT generators. Based on the NJPA rates this vendor will deliver and set up a portable emergency generator model X200 200KW with trailer in the amount not to exceed \$110,799.55. In an effort to obtain standardization, reliability, best costs, best return policies and ongoing support after maintenance expiration, the city wishes to utilize this NJPA agreement with CAT.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL THAT:
Per 3-29B, Optional Purchasing, of the Dover Purchasing Procedure, the purchasing agent may, with approval of the city manager, waive bidding procedures when purchasing through the state of New Hampshire or at state bid prices, other governmental agencies or cooperative buying groups.

The Purchasing Agent is hereby authorized to issue a Purchase Order to Southworth Milton Cat for a portable emergency generator with trailer in the amount not to exceed \$110,799.55. The amount of this authorization shall be limited so as not to exceed available funding.

Financing

Account	Description	Appropriation	Balance
2215.1.220.42220.4741.02270.13	2010 Homeland Security Grant	\$125,130.00	\$125,130.00

AUTHORIZATION

Approved as to Funding: *Daniel R. Lynch 2/21/13* Daniel R. Lynch Finance Director Sponsored by: Mayor Dean Trefethen By request

Approved for Legal Compliance: *Allan B. Kears 2/21/13* Allan B. Kears, Sr. General Legal Counsel

Recorded by: Karen Lavertu City Clerk



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.A.2.

Resolution Number: **R - 2013.02.27 - 16**

Resolution Re: Purchase of Portable Emergency Generator via NJPA

DOCUMENT HISTORY:

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

DOCUMENT ACTIONS:

VOTING RECORD		
Date of Vote:	YES	NO
Mayor Dean Trefethen		
Deputy Mayor Robert Carrier, At Large		
Councilor Edward Spuler, Ward 1		
Councilor William Garrison III, 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.A.2.

Resolution Number: **R - 2013.02.27 – 16**

Resolution Re: Purchase of Portable Emergency Generator via NJPA

RESOLUTION BACKGROUND MATERIAL:

The city was awarded the 2010 Homeland Security Grant in the amount of \$125,130.00 to purchase a portable emergency generator and trailer.

The National Joint Powers Alliance is a Municipal Government Service Cooperative that has established several procurement contracts through bid solicitations. One such contract is for generators of various makes and models. The NJPA has awarded an agreement with Caterpillar Inc until October 2013. The pricing and terms and conditions are extended to non-profits, counties, cities, towns, schools, colleges and universities but does not lock them into exclusive buying with CAT.

Southworth Milton Caterpillar is the authorized distributor for such equipment for the New England region and currently maintains all city and school CAT generators. Based on the NJPA rates this vendor will provide and set up portable emergency generator model XQ200 diesel 200 KW with trailer in the amount not to exceed \$110,799.55. In an effort to obtain standardization, reliability, best costs, best return policies and ongoing support after maintenance expiration, the city wishes to utilize this NJPA agreement with Caterpillar Company.

Under Dover City Administrative Code Chapter III, Article III Purchasing Code, Optional Purchasing #3-29B, the purchasing agent may, with approval of the city manager, waive bidding procedures when purchasing through the state of New Hampshire or at state bid prices, other governmental agencies or cooperative buying groups.

Purchasing Information:

Type:	Purchase Order	Advertised:	No
Invitations Mailed:	None	Number of Responses:	0
Warranty:	Meets Specifications	Terms:	Net 30, FOB Dover
Work Bonded:	na	Contract:	Yes
Prices will hold for:	Oct 2013	Estimated Delivery:	As needed
Recommended Award to:	CAT Generators, Southworth Milton Cat	Fund:	Grant
Other Approvals Required:	State NH	References Checked:	Satisfactory
Previously Worked for City:	Yes	Reason for Council Approval:	Expenditure exceeds \$25,000 threshold.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda #: 13.B.1.

Resolution Number: **R – 2013.02.27 - 17**
Resolution Re: **Amendment of Bon Ami Lease for McConnell Center**

WHEREAS: During the summer of 2012, the City entered into a lease with Bon Ami Catering for space in the McConnell Center cafeteria area; and

WHEREAS: The vendors have requested an amendment to the lease agreement which contains provisions for fit-out of the space and purchase of equipment with rent credit provisions resulting in the City of Dover owning the restaurant equipment.

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

The City Manager is authorized to enter into an amendment to the Bon Ami lease to allow the City to purchase the restaurant equipment without a rent credit and to receive rent payments from Bon Ami starting in July, 2013.

AUTHORIZATION

Approved as to Funding: *Daniel R Lynch* 2/21/13 Daniel R. Lynch 2/21/13 Finance Director Sponsored by: Dean Trefethen
By request

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

Recorded by: *Karen Lavertu* 2/28/13 Karen Lavertu City Clerk



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda #: 13.B.1.

Resolution Number: **R – 2013.02.27 - 17**

Resolution Re: **Amendment of Bon Ami Lease for McConnell Center**

DOCUMENT HISTORY:

First Reading Date:

Public Hearing Date:

Approved Date:

Effective Date:

DOCUMENT ACTIONS:

VOTING RECORD		
Date of Vote:	YES	NO
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.		

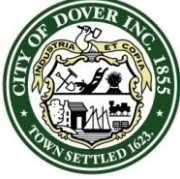
RESOLUTION BACKGROUND MATERIAL:

The McConnell Center is fortunate to have the facilities in place to host a restaurant in the building to help serve the needs of the tenants as well as a draw to the community. The City had a food service provider for the first five (5) years of operation and recently reached an agreement with a new business (Sophem Corp. dba Café Bon Ami).

The City and Sophem Corp. reached an agreement in the spring of 2012, which was approved by the City Council on June 27, 2012. Part of this agreement included terms that required the tenant to equip the kitchen with all items necessary to operate the restaurant business. This required everything except the hood and fire suppression system that was already in place, to be purchased and installed by the tenant. One of the stipulations in the agreement is that the City wished to retain ownership of the equipment and fit-out work completed by the tenant so we would not end up with an empty space if they were to leave.

In order to pay the tenant for the equipment over time a plan was spelled out that the City would allow a credit in lieu of rent payments. This credit arrangement would carry forward with the amount of what they would be paying for rent being deducted from the total value of the fit-out and equipment until it was reimbursed. This agreement was written on the assumption that the tenant would be able to open for business in the summer of 2012.

The tenant was not able to open the restaurant until mid-December 2012 so the original language and dates to commence rent payments were already six (6) months out of sync with the operation of business. Once they opened the tenant requested that a different process for reimbursement be put in place which included a



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda #: 13.B.1.

Resolution Number: **R – 2013.02.27 - 17**

Resolution Re: **Amendment of Bon Ami Lease for McConnell Center**

cash payment as soon as possible and that they would begin rent payments sooner than was originally planned.

This provision allows the City to complete the purchase of the equipment immediately and the tenant to recover their investment so they can apply their resources to the successful operation of the restaurant.



CITY OF DOVER

288 CENTRAL AVENUE
DOVER, NH 03820
WWW.DOVER.NH.GOV
603.516.6000

LEASE AMENDMENT

This Lease Amendment is entered into this _____ day of _____, 2013 and is by and between Bonita L. Clarke and Richard Clarke d/b/a Bon Ami Catering, 219 Longhill Road, Dover, New Hampshire 03820, registered to do business in New Hampshire, hereinafter called “Lessee” and The City of Dover, New Hampshire, of 288 Central Avenue, Dover, County of Strafford and State of New Hampshire (hereinafter referred to as “Lessor”).

NOW COME the parties who hereby agree to amend the Lease Agreement executed on the ____ day of _____, 2012 as follows:

1. The City of Dover shall acquire full title and right to all equipment and fit out improvements on the Premises in exchange for a total payment from the City of Dover in the amount of Nine thousand eight hundred seventy-five dollars and seventy-one cents (\$9,875.71) to the Lessees, or designated vendors of the Lessee, as determined by the City of Dover. The Lessees warrant the vendors of the Lessees who performed fit out services on the Premises consist exclusively of DF Richard Energy and Munson Plumbing in the total amount of Two thousand seven hundred forty-one dollars and eighty-three cents (\$2,741.03).
2. The Lessees waives all claims to a rent credit, reimbursement or ownership of the equipment and fit out improvements on the Premises.
3. The Lessee shall commence on July 1, 2013 the payment of lease payments in the amount of Four hundred twenty eight dollars and seventy-five cents (\$428.75) per month until the lease payments are adjusted for Fiscal Year 2015 pursuant to the provisions of the Lease Agreement.
4. All other provisions of the Lease Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto executed this Lease amendment this _____ day of _____, 2013.

By: Bonita L. Clarke, Individually

J. Michael Joyal
City Manager
Duly Authorized

By: Richard Clarke, Individually