

CITY OF DOVER

CITY COUNCIL – MINUTES

Meeting Type: **Regular Meeting**
Meeting Location: **Council Chambers, City Hall**
Meeting Date: **Wednesday, September 9, 2015**
Meeting Time: **7:00 pm**

1. CALL TO ORDER

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

Councilor Gagnon led the Pledge of Allegiance.

4. ROLL CALL ATTENDANCE

Present: Mayor Weston, Deputy Mayor Carrier, Councilor Cheney, Councilor Gagnon, Councilor Garrison, Councilor Hooper, Councilor McManus, Councilor O'Connor, and Councilor Thibodeaux.

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

5. PROCLAMATIONS/AWARDS

6. APPROVAL OF AGENDA

Deputy Mayor Carrier moved to add a public hearing as 7.F. Kostis Enterprises Development Agreement.

Councilor Cheney said she had an objection to the Agenda setting regarding the Charter Amendment resolutions and outside legal opinions. She said the resolutions on the Councilors' desks should be ignored and there shouldn't be another public hearing.

Mayor Weston asked the City Manager to explain why there were new resolutions on the Councilors' desks.

City Manager Joyal said Councilor Cheney misunderstood what she overheard in the hallway about another public hearing. He was talking about the Kostis Enterprise Development Agreement needing another public hearing before the Council could vote on it.

Councilor Cheney asked again about the two new Charter Amendment resolutions.

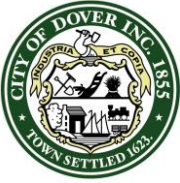
City Manager Joyal said he was recommending that the Council substitute the Charter Amendment resolutions because the statute states that the Council shall order that the petition be placed on the ballot, and submit a final report to the City Clerk that contains the language to go on the ballot along with an attorney's opinion that it conforms to State law. He said the Attorney General's letter that started the petition process wasn't what was required, but a NH licensed attorney that will sign off stating that it conforms to State law. He said the new resolutions were an attempt to make sure the City was doing things accordingly, so that no one can challenge the rights of the voters, and that the Council follows through with what they are required to do under the Statutes. He said the new resolutions order the Clerk to place the questions on the ballot and nothing more.

Councilor Cheney stated that she felt the letter from the Attorney General stating the charter amendment question was legal was enough.

Councilor McManus moved to add the Library Board of Trustees Report.

Deputy Mayor Carrier moved to approve the Agenda as amended; seconded by Councilor Gagnon.

Vote: 8/1. Councilor Cheney was opposed.



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7. PUBLIC HEARINGS

A. CHARTER AMENDMENT – SCHOOL BOARD SPONSORED BY COUNCILOR CHENEY

Councilor O'Connor moved to suspend the rules to allow Councilor Cheney give a PowerPoint presentation to the Council; seconded by Deputy Mayor Carrier.
Roll Call Vote: 9/0.

Councilor Cheney, 9 Snow's Court: She gave a PowerPoint presentation regarding the School Board Charter Amendment question to the Council.

David Martin, 10 Linda Avenue: He spoke in favor of this Charter Amendment question.

Doris Grady, 42 Long Hill Road, School Board Member: She spoke in favor of this Charter Amendment question.

Kristine Baber, 5 Gerry's Lane: She spoke against this Charter Amendment question.

Wendy Alley, 28A Cataract Avenue: She spoke against this Charter Amendment question. She also thought her Councilor should not be involved in School business and felt it was inappropriate for her to bring this forward.

Donald Medbery, 3 Covered Bridge Lane: He defended Councilor Cheney for bringing this forward.

Thomas Southworth, 56 Durham Road: He spoke against this Charter Amendment question.

Jeffrey Brissette, 11 Fieldstone Drive: He spoke in favor of letting the people make this decision.

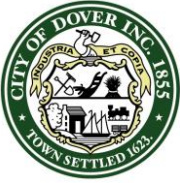
Dennis Shanahan, 508 Tolend Road: He spoke in favor of the process, but was against the question.

William DeGrandpre, 21 Danielle Lane: He spoke in favor of this Charter Amendment question.

Theodore Anglace, 23 Wallace Drive: He spoke in favor of this Charter Amendment question.

Amanda Russell, 20 Cranbrook Lane, School Board Chairperson: She spoke against this Charter Amendment question.

Mary Hebbard, 97 Spruce Lane: She spoke in favor of this Charter Amendment question.



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David Scott, 220 Back Road: He spoke in favor of this Charter Amendment question.

George Sherwood, 43 Arch Street: He spoke in favor of this Charter Amendment question.

Phyllis Woods, 1 Barry Street: She spoke in favor of this Charter Amendment question.

William Baber, 5 Gerry's Lane: He spoke against this Charter Amendment question.

Peter Schmidt, 53 Fourth Street: He spoke against this Charter Amendment question. He said it should go forward, but felt it should be investigated with regards to whether this is legally valid or not.

Somersworth resident wished to speak, but was denied.

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

B. CHARTER AMENDMENT – CITY ATTORNEY SPONSORED BY COUNCILOR CHENEY

Councilor Cheney, 9 Snow's Court: She gave a PowerPoint presentation regarding the Legal Officer Charter Amendment question to the Council.

Mary Hebbard called for a point of order and said a public hearing falls under State statutes and the State rules are anyone can speak whether or not they are a citizen of Dover.

Councilor Cheney moved to suspend the rules to allow anyone present to speak for this Public Hearing.

Mrs. Hebbard asked the people in the audience to stand if they favor this motion. [Several people stood up]

Mayor Weston said there was no second to the motion and the City Council meeting follows City Council rules.

Mrs. Hebbard said this will hurt the Council.

She spoke in favor of this Charter Amendment question.

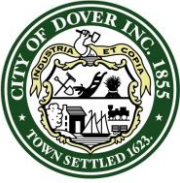
Sheila Elia, 39 Rutland Street: She spoke in favor of the Charter Amendment question.

David Martin, 10 Linda Avenue: He spoke in favor of the Charter Amendment question.

Doris Grady, 42 Long Hill Road, School Board Member: She spoke in favor of the Charter Amendment question.

Jane Sherwood, 43 Arch Street: She spoke in favor of the Charter Amendment question.

William DeGrandpre, 21 Danielle Lane: He spoke in favor of the Charter Amendment question.



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Wendy Alley, 28A Cataract Avenue: She spoke against this Charter Amendment question.

Eddie Edwards, 28 Childs Drive: He spoke in favor of the Charter Amendment question.

David Scott, 220 Back Road: He spoke in favor of the Charter Amendment question.

Jacquelyn Dutkiewicz, 6 Floral Avenue: She spoke in favor of the Charter Amendment question.

Dennis Shanahan, 508 Tolend Road: He spoke in favor of the process, but was against the question.

Phyllis Woods, 1 Barry Street: She spoke in favor of the Charter Amendment question.

Gina Cruikshank, 19 Glenwood Avenue: She said the City Attorney answers to the law and would be disbarred if he did anything against the law. She spoke against this Charter Amendment question. She spoke about other Citizen's Forum attacks and said it's not the correct forum.

Jeffrey Brissette, 11 Fieldstone Drive: He said the requirements for this process have been followed and it will be on the ballot.

Donald Medbery, 3 Covered Bridge Lane: He spoke in favor of the Charter Amendment question.

William Baber, 5 Gerry's Lane: He spoke against this Charter Amendment question.

Peter Schmidt, 53 Fourth Street: He spoke against this Charter Amendment question. He urged the Council to give citizens their guidance.

Theodore Anglace, 23 Wallace Drive: He advised the Council not to give guidance because that was against the law as electioneering.

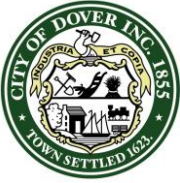
Robert Meyer, 36 Wildewood Lane: He asked for more information on the ballot that explained what the current format is and what it will be changed to.

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

C. GEOGRAPHIC NAME CHANGE – COCHECO RIVER SPONSORED BY MAYOR WESTON BY REQUEST

William Tarbell, 1 Shamrock Lane: He informed the Council that he was the person who requested this correction be made.

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



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D. B15021 LED LIGHTING UPGRADE AND AUTHORIZATION FOR FINANCING MCCONNELL CENTER (REQUIRES A 2/3 MAJORITY VOTE OF THE CITY COUNCIL) (CITY COUNCIL VOTE TO BE HELD ON SEPTEMBER 23, 2015)
SPONSORED BY MAYOR WESTON BY REQUEST

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

E. CHAPTER 113: FLOODPLAIN DEVELOPMENT
SPONSORED BY COUNCILOR GARRISON AS PLANNING BOARD REPRESENTATIVE

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

F. ACCEPTANCE OF DEVELOPMENT AGREEMENT BETWEEN THE CITY OF DOVER AND KOSTIS ENTERPRISES, LLC
SPONSORED BY MAYOR WESTON BY REQUEST

David Scott, 220 Back Road: He spoke against the resolution.

Mayor Weston, seeing no one else 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.

Debra Bodell, 202 Central Avenue: She spoke about the End 68 Hours of Hunger program. She said there will be a fundraiser on Friday, September 11, 2015.

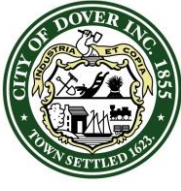
Theodore Anglace, 23 Wallace Drive: He spoke about Item #13.B.1. and asked if it involves a taxcap override. He spoke about the Parking Garage numbers and comparing them to the Carl Walker numbers. He also spoke about the Treeno program for archived records and recommended the City getting a new program for archiving records.

Wendy Allie, 28A Cataract Avenue: She thanked the Council for all their hard work and don't deserve to be treated the way they have been tonight.

Doris Grady, 42 Long Hill Road, School Board Member: She spoke about freedom of speech. She urged the Council to vote to place the Charter Amendments on the ballot. She urged citizens to get out and vote in November.

David Scott, 220 Back Road: He agreed with Ms. Grady's comments. He spoke about the right of free speech.

Donald Medbery, 3 Covered Bridge Lane: He spoke about the expenditures of the Council.

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Jeffrey Brissette, 11 Fieldstone Drive: He spoke about the High School project. He felt the vote should have been with the voters. He spoke about the condition of Tolend Road, which looks nice, but is still an uncomfortable ride.

Mary Hebbard, 97 Spruce Lane: She spoke about the Charter Amendment resolutions to be substituted. She said she doesn't believe the City Manager that they are to make sure everything is done correctly. She asked Mr. Schmidt to apologize to Councilor Cheney for verbally assaulting her at the Post Office. She felt people were cowards because they don't mention names and speak with decorum. She said the Council doesn't listen to the speakers at the podium. She spoke about former City officials, corruption in the City, and why these questions need to be put on the ballot.

Peter Schmidt, 53 Fourth Street: He spoke about Mary Hebbard's despicable comments against his character, and asked for an apology from Mrs. Hebbard. He said Councilor Cheney was the one who accosted him.

Ulrich Goerke, 9 Snow's Court: He said he was present when Mr. Schmidt accosted Councilor Cheney and himself.

William Baber, 5 Gerry's Lane: He said tonight's meeting does not represent Dover well. He thanked the Council for their hard work.

Mayor Weston, 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.

Councilor Cheney asked the City Manager to clarify the Carl Walker numbers for the Parking Garage.

City Manager Joyal refer to Mr. Anglace's comments regarding information on the Carl Walker numbers, comparing apples to apples. He gave an overview of his understanding of what is looked at with the construction costs by Carl Walker. He said his staff spoke with the Carl Walker folks and the all-inclusive cost is \$29,869 per parking space, but using the apples to apples number it's \$15,114 per parking space, which he felt were low numbers.

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

Vote: 9/0.

10. APPROVAL OF MINUTES

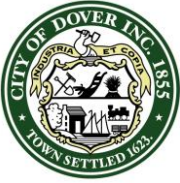
A. August 19, 2015 – Workshop Session

B. August 19, 2015 – Special Meeting

C. August 26, 2015 – Regular Meeting

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

Vote: 9/0.



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11. MAYOR'S REPORT

Mayor Weston said she attended a meeting for the creation of a Veterans Memorial.
Deputy Mayor Carrier moved to accept the Mayor's Report; seconded by Councilor Thibodeaux.
Vote: 9/0.

12. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2ND READING

1. CHAPTER 113: FLOODPLAIN DEVELOPMENT

SPONSORED BY COUNCILOR GARRISON AS PLANNING BOARD REPRESENTATIVE

Councilor Garrison moved for its adoption; seconded by Councilor Gagnon.
Councilor Cheney explained why she was voting against this Ordinance.
Roll Call Vote: 8/1; Passed. Councilor Cheney was opposed.

B. ORDINANCES IN THE 3RD READING

C. RESOLUTIONS

1. CHARTER AMENDMENT – SCHOOL BOARD

SPONSORED BY COUNCILOR CHENEY

City Manager Joyal explained why he was recommending the resolution be substituted as a whole.

Councilor Cheney moved to substitute resolution as a whole; seconded by Councilor O'Connor.

City Clerk Lavertu said she will follow the State statutes regarding how the question will be put on the ballot.

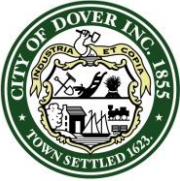
Councilor Cheney moved to attach the Attorney General's report as background to the substituted resolution; seconded by Councilor Garrison.

Vote: 9/0.

General Legal Counsel Blenkinsop clarified that the requirement is that attached to the resolution is a letter from a New Hampshire licensed attorney that states that this amendment doesn't conflict with State Law, which he felt was separate and apart from the opinion of the Attorney General's office. He said he will be supplying that to the Council for this resolution.

Councilor Cheney said she was told that the letters from the Attorney General's office is sufficient to go forward.

General Legal Counsel Blenkinsop said he was the City Attorney for the Municipal Corporation, and not the Attorney General's office. He gives the Council legal advice regarding this State statute, and that it's his legal opinion that the Attorney General's opinion does not satisfy that requirement. Mayor Weston read the last paragraph of his letter to the Council, which backed up the General Legal Counsel's comments.



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Councilor Gagnon moved to adopt the resolution as amended; seconded by Councilor Garrison.

Vote: 9/0.

2. CHARTER AMENDMENT – CITY ATTORNEY **SPONSORED BY COUNCILOR CHENEY**

Councilor Cheney moved to substitute resolution and approve; seconded by Councilor O'Connor.

City Manager Joyal read the substituted resolution to the Council. General Legal Counsel Blenkinsop recused himself.

Councilor Cheney moved to attach the letters from the Attorney General's office; seconded by Councilor O'Connor.

Councilor O'Connor asked why he wasn't given these letters when they were received.

Councilor Hooper talked about her confusion between the letters.

City Manager Joyal said they have contacted an attorney that will get the Council a letter by next week.

Mayor Weston asked for a vote to attach the Attorney General's letters to the resolution.
Vote: 9/0.

Councilor Cheney said only the State makes laws. She didn't see spending any more money on another attorney and felt it was depriving the voters. She felt it doesn't need to be attached to send to the State. She did add that she could provide a NH licensed attorney's letter if the Council feels strongly about it, even though she felt it was not necessary.

Councilor McManus said he felt it was necessary.

Councilor O'Connor agreed with Councilor McManus.

Deputy Mayor Carrier agreed with Councilor McManus. He said he wants this question on the ballot, but wants it done correctly.

Councilor Cheney said she has a draft of the letter, but can have the final copy for tomorrow.

Mayor Weston asked who the attorney was that wrote the letter.

Councilor Cheney said it was Attorney Brian Gould, and she paid for it.

Councilor McManus said the Council should have received it.

Councilor Cheney said she just received it today.

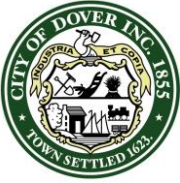
Mayor Weston referred to the criticism that has been addressed tonight that things aren't given to the Council in a timely manner. She said they should have received it in draft form. She asked for clarification on the opinion and if it stated that the resolution is in accordance to State law.

Councilor Cheney said it was exactly the same as what was being provided by General Legal Counsel Blenkinsop for the School Board Charter Amendment question.

Mayor Weston said that was what the Council had been looking for.

Councilor Cheney said she still felt the Attorney General's opinion was sufficient, but in order to move this along...

Councilor O'Connor said he was willing to vote on this, but felt that the City should still get another opinion on this question. He referred to the opinion they have already received that said it doesn't conform to State law, and said it makes him question it.



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Councilor McManus said all they need is a letter that says it's compliant. Mayor Weston asked the General Legal Counsel about the process to challenge this question if it passes and someone believes it's against State law. General Legal Counsel Blenkinsop gave an overview of the process. Mayor Weston asked what happens if the court finds it against the law. General Legal Counsel Blenkinsop said the judge would say that that part of the Charter can't apply, which then could be appealed with the State Supreme Court. Mayor Weston said she will be supporting this resolution. City Manager Joyal gave an overview of his actions and that this resolution orders the City Clerk to place this on the November ballot. Mayor Weston asked for a vote from the Council.
Vote: 9/0.

3. GEOGRAPHIC NAME CHANGE – COCHECO RIVER SPONSORED BY MAYOR WESTON BY REQUEST

Councilor Garrison moved for its adoption; seconded by Councilor Hooper.
Vote: 8/0. Councilor Cheney was absent from Council Chambers.

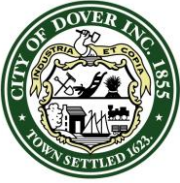
4. ACCEPTANCE OF DEVELOPMENT AGREEMENT BETWEEN THE CITY OF DOVER AND KOSTIS ENTERPRISES, LLC **(TO BE REFERRED TO A PUBLIC HEARING ON SEPTEMBER 16, 2015)** SPONSORED BY MAYOR WESTON BY REQUEST

Deputy Mayor Carrier moved to refer to a public hearing on September 16, 2015; seconded by Councilor O'Connor. Councilor McManus asked for the full agreement, because he wasn't comfortable voting on this resolution with just the term sheet. City Manager Joyal said they still don't have the development agreement.
Vote:

13. NEW BUSINESS

A. CONSENT CALENDAR

- 1. BLOCK PARTY and RAFFLE – Dover Main Street**
- 2. RAFFLE – Maple Wood School PTA**
- 3. ROAD RACE – Dover High School Unified**
- 4. ROAD RACE – Horne Street School Parent Teacher Group**
- 5. TAG – Dover Little Green Cheerleading**
- 6. APPROVAL OF GREAT BAY ROWING LEASE BUTLER BUILDING**
SPONSORED BY MAYOR WESTON BY REQUEST



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COMMITTEE REPORTS

1. **School Board**
2. Planning Board
3. Appointments Committee
4. Recreation Advisory Board
5. McConnell Center Advisory Committee
6. Arts Commission
7. Solid Waste Advisory Commission
8. Transportation Advisory Commission
9. Legislative Liaison
10. Pool Advisory Committee
11. Parking Commission
12. Ordinance Committee
13. Police and Parking Facility Building Committee
14. Joint Building Committee – Dover High School and Regional CTC
15. Dover Main Street
16. **Library Board of Trustees**

Deputy Mayor moved for the adoption of the Consent Calendar; seconded by Councilor Garrison. Mayor Weston asked the Council if they had items they would like pulled for further discussion. Councilor Hooper pulled the School Board Report. Councilor McManus pulled the Library Board of Trustees Report. Mayor Weston asked for a roll call vote on the remaining items of the Consent Calendar. Roll Call Vote: 9/0.

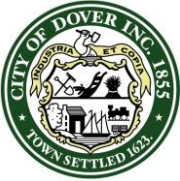
Councilor Hooper gave an overview of the School Board Report to the Council. Deputy Mayor Carrier moved to accept the School Board Report; seconded by Councilor O'Connor. Vote: 8/0. Councilor Garrison was absent from Council Chambers.

Councilor McManus gave an overview of the Library Board of Trustees Report to the Council. He recognized Library Director Beaudion's 40 years of service. Deputy Mayor Carrier moved to accept the Library Board of Trustees Report; seconded by Councilor Thibodeaux. Vote: 9/0.

B. RESOLUTIONS

1. **FISCAL YEAR 2016 BUDGET AMENDMENT #1 – AMEND SCHOOL ADEQUACY AID REVENUE AND DEBT SERVICE APPROPRIATION (REQUIRES A 2/3 MAJORITY VOTE OF THE CITY COUNCIL) (TO BE REFERRED TO A PUBLIC HEARING ON SEPTEMBER 23, 2015) SPONSORED BY MAYOR WESTON BY REQUEST**

Deputy Mayor Carrier moved to refer to a public hearing on September 23, 2015; seconded by Councilor Garrison. Councilor Cheney asked if the \$1.1 million will be excluded in the taxcap calculation. City Manager Joyal said he would be reducing the \$1.1 million from the School side of the budget. Mayor Weston asked if they were going over the taxcap. City Manager Joyal said it will be \$2,248 over the tax cap. Vote: 9/0.



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C. ORDINANCES IN 1ST READING

**1. CHAPTER 131 SECTION 23.A.(4) HUNTING ON CITY PROPERTY
(TO BE REFERRED TO A PUBLIC HEARING ON SEPTEMBER 23, 2015)
SPONSORED BY COUNCILOR GAGNON AND COUNCILOR O'CONNOR**

Deputy Mayor Carrier moved to refer to a public hearing on September 23, 2015;
seconded by Councilor O'Connor.
Councilor Gagnon gave an overview of this ordinance change.
Vote: 9/0.

**2. CHAPTER 166 – VEHICLES AND TRAFFIC: REPEAL OF TOLEND ROAD
WEIGHT LIMIT
(TO BE REFERRED TO A PUBLIC HEARING ON SEPTEMBER 23, 2015)
SPONSORED BY MAYOR WESTON BY REQUEST**

Deputy Mayor Carrier moved to refer to a public hearing on September 23, 2015;
seconded by Councilor Garrison.
Vote: 9/0.

14. COUNCIL CORRESPONDENCE

15. COUNCIL MATTERS OF INTEREST

Councilor McManus informed the citizens and Council that the Woodman Institute will be hosting an Antique Car Show on Sunday, September 13, 2015.

Councilor Cheney reminded the public that the filing period to run as a candidate in the Municipal Election ends on September 18, 2015. She asked people to volunteer.

Councilor O'Connor talked about crosswalks and drivers not stopping for them.

Councilor Gagnon reminded the public about the Farmers' Market held on Wednesdays, 2:00 pm to 6:00 pm, on Sixth Street.

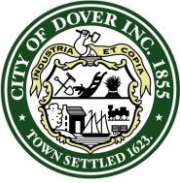
Councilor Thibodeaux said she will be holding her Coffee with a Councilor on Saturday from 11:00 am to 1:00 pm.

Councilor Garrison asked for a workshop regarding the Charter Amendment.

Mayor Weston asked if everyone was in agreement to have it on September 23, 2015 at 5:30 pm.

City Manager Joyal asked if the Council wanted the legal opinion that he has started for the workshop.

Mayor Weston said the Council doesn't need the opinion, but they wanted legal counsel present to answer questions.



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16. ADJOURNMENT

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