



CITY OF DOVER

CITY COUNCIL - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Wednesday, January 13, 2010**
Meeting Time: **7:00pm**

1. CALL TO ORDER

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

Pledge of Allegiance was led by Councilor Cruikshank.

4. ROLL CALL ATTENDANCE

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

Also present: City Manager Joyal, City Attorney Krans, and City Clerk Lavertu.

5. PROCLAMATIONS/AWARDS – None

6. APPROVAL OF AGENDA

Councilor Weston made a motion to accept the agenda as presented; seconded by Councilor Cheney.

Vote: 9/0.

7. PUBLIC HEARINGS

A. ORDINANCE: MORNINGSIDE DRIVE STOP SIGN SPONSORED BY COUNCILOR WESTON

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

B. ORDINANCE: SHAWS LANE PARKING SPONSORED BY COUNCILOR WESTON

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

C. RESOLUTION: ADOPTION OF FY 2011-2016 CAPITAL IMPROVEMENTS PROGRAM (TO BE VOTED ON JANUARY 27, 2010) SPONSORED BY MAYOR MYERS BY REQUEST

John Scruton, 99 Sixth Street: He asked if the Tolend Road reconstruction project was part of the CIP.

Mayor Myers answered that the CIP did include the reconstruction of Tolend Road and Watson Lane.



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Mr. Scruton said they have all heard how great the roads would be if they all could be reconstructed. He said it costs \$1 million per mile to reconstruct a street and \$100,000 to resurface. He said Sixth Street was reconstructed. After six years it was breaking up and after eight years they were patching it. He asked what the lifespan was of a road reconstruction, because he didn't believe it should be breaking up already with the amount of money that was spent.

Douglas DeDe, 143 Locust Street: He agreed with the suggestions floating around that the Tolend Road project shouldn't go forward. He said the sewer still needs to be completed, and a mound may need to be built at some point, which means there will be a lot of truck travel on the road. This had to be a citywide issue and not just a Ward 6 issue, because it is a citywide expense. He said until all the variables are clearly known this project should wait.

Harvey J. Lynch, 26B Lincoln Street: He said he was surprised he agreed with Mr. DeDe's comments. He asked where the money was coming from with all the delinquencies on taxes. He felt Dover was going to be bonded into bankruptcy.

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

D. RESOLUTION: APPROPRIATION FOR FY2011 CAPITAL IMPROVEMENTS PROGRAM AND AUTHORIZATION FOR BONDING (TO BE VOTED ON JANUARY 27, 2010)
SPONSORED BY MAYOR MYERS BY REQUEST

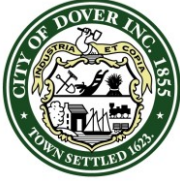
John Scruton, 99 Sixth Street: He said bonding in the past has gotten the City into a lot of trouble. He said there has been a nonstop tax increase in the City for more than 10 years. He stated his property tax increases from 1999 to present. He said he is topping \$6,000 and doesn't know where he's getting the money. He said there is plenty of money to run the City, and would like an independent audit conducted that shows where the money is going.

Harvey J. Lynch, 26B Lincoln Street: He said he felt the City was over bonding. He asked for an explanation about the City bonding an employee's salary.

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

E. RESOLUTION: APPROPRIATION FOR FY2011 CAPITAL IMPROVEMENTS PROGRAM – NON-DEBT FINANCED PROJECTS (TO BE VOTED ON JANUARY 27, 2010)
SPONSORED BY MAYOR MYERS BY REQUEST

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



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F. RESOLUTION: REAUTHORIZATION OF GENERAL FUND CIP APPROPRIATION FOR ENERGY EFFICIENCY PROJECTS AND AUTHORIZATION FOR BONDING (TO BE VOTED ON JANUARY 27, 2010)
SPONSORED BY MAYOR MYERS BY REQUEST

Eric Steltzer, 103 Henry Law Avenue, Chairman of the Dover Energy Advisory Committee: He wanted to show his support for this Resolution in making the City more energy efficient.

Douglas DeDe, 143 Locust Street: He said he was in favor of the Resolution. He said it will make a big difference for the City, most particularly at the Dover Arena and McConnell Center.

Harvey J. Lynch, 26B Lincoln Street: He didn't see why the City had to front all this money to Johnson Controls before they do anything. He didn't understand why results won't be seen for seven years. He said Dover doesn't have a lot of money, and he felt the Council was giving it away.

Aviva Grasso, 1 Pebble Hill Drive: She said spending a little money now to do things right will save money down the road. The sooner this gets done the sooner the City can start saving.

Gary Green, 18 Footbridge Lane: He said he still stands firmly behind it. He clarified that the City will start seeing savings immediately, and seven years was the time period to pay off the bonding on the project.

Mayor Myers, 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.

Douglas DeDe, 143 Locust Street: He complimented the Council on the rearrangement of the Agenda. He said people sometimes come to the podium with erroneous and negative information. He said he had something positive to say about the very impressive brochure that was created by the Economic Development Director. He said his approach is spectacular, and tells the story of Dover well. He has volunteered to work pro bono with the Economic Development Director, who is looking to establish an outreach program. He asked for citizens to contact the City Clerk's office if they are interested in making contacts with businesses and selling the story of Dover.

Eric Steltzer, 103 Henry Law Avenue, Chairman of the Dover Energy Advisory Committee: He congratulated the Council on their election. He introduced himself and explained the role of the Dover Energy Advisory Committee. He invited everyone to the Button Up New Hampshire



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Program, which is a two hour presentation on energy efficiencies that everyone can do to be more energy efficient. He said it will also be aired on Channel 22.

Harvey J. Lynch, 26B Lincoln Street: He said he hated to sound negative, but he doesn't like the amount of money that is wasted in the City. He said what the Council did to Councilor Cheney was breaking the law. He said he sees things happening behind the scenes. He said he will try to be positive, but he was going to be watching them. He said it was the people's money and the Council should watch what they do.

David Montenegro, 55 Union Street: He congratulated the new Councilors. He referred to the Resolution regarding the video camera, and asked why the City felt there was a need for video cameras in the halls of the city buildings. He was concerned about privacy, and asked the Council to withhold this Resolution until it can be addressed. He referred to John Scruton's comments on December 9, 2009, where he recommended turning off traffic lights to induce traffic calming. He said the Council listened and one Sunday all the lights were blinking yellow, and the traffic was running smoother. He referred to the new guidelines for Citizen's Forum and asked for clarification on what constitutes City business. He said there many things the citizens are concerned about that might not be on the Agenda, and they should be able to talk about them.

Aviva Grasso, 1 Pebble Hill Drive: She congratulated the new Councilors. She heard some story about the inauspicious start last week, and hoped the Council will move forward positively as they said they would while campaigning. She said she was excited that the Button Up New Hampshire Program will be broadcasted, and she is looking forward to the expansion of Channel 22.

Gary Green, 18 Footbridge Lane: He congratulated the Councilors. He referred to the video camera resolution. As a member of the McConnell Center Advisory Board, they have determined a need for them. He wouldn't discuss the incidents, but he hoped the Council would vote for it.

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

9. CITY MANAGER'S REPORT

City Manager Joyal referred Page 21, Storm Management Summary. He said there have been six recorded storm events, expending \$84,000 to date. He wanted the Council to know that the City has 3 sidewalk tractors, and only the oldest model, 1986, is working at this time. He referred to the energy project, and said the City qualified for a second round of funding, \$200,000 to \$400,000, from Energy Efficiency Community Block Program Grant (EECB.) He said the City has applied for a low interest loan from the Community Development Finance Authority, who was awarded funds through the regional greenhouse gas initiative. He said the workshop next Wednesday will be dealing with finance issues. He said he hoped to have the final tax cap numbers available, and the County budget figures that are expected to be released.



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Councilor Weston made a correction that Tolend Road landfill is in Ward 5. She asked about the mound that was mentioned during the public hearing.

City Manager Joyal said he didn't know anything about it.

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

Vote: 9/0.

10. APPROVAL OF MINUTES

- A. December 2, 2009
- B. December 9, 2009
- C. December 11, 2009
- D. December 16, 2009
- E. January 4, 2010
- F. January 6, 2010 – Special Meeting

Deputy Mayor Trefethen moved to accept the Minutes as presented; seconded by Councilor Carrier.

Vote: 9/0.

11. MAYOR'S REPORT

Mayor Myers said the County plans to publicly release their budget on Friday, with a public hearing to be held on January 27th. He thanked the City Manager, Department Heads and staff for their assistance with the Council Orientation Sessions. He thanked City Clerk Lavertu and Ms. Bessette for their work on the inauguration. He said he did a few ribbons cuttings for the Chamber of Commerce and he had more coming up this month, which was positive sign for Dover. He invited the citizens to his Coffee with the Mayor session at Café on the Corner on Saturday, January 30th, 9:00 to 11:00 am.

Deputy Mayor Trefethen moved to accept the Mayor's Report; seconded by Councilor Garrison.

Vote: 9/0.

12. UNFINISHED BUSINESS

A. ORDINANCES IN THE 2nd READING

1. MORNINGSIDE DRIVE STOP SIGN SPONSORED BY COUNCILOR WESTON

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

Roll Call Vote: 9/0.

2. SHAWS LANE PARKING SPONSORED BY COUNCILOR WESTON



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Councilor Weston moved for its adoption; seconded by Councilor Nedelka.
 Roll Call Vote: 9/0.

B. ORDINANCES IN THE 3rd READING - None

C. RESOLUTIONS - None

13. NEW BUSINESS

A. CONSENT CALENDAR

1. **RAFFLE – City of Dover, Community Services Employees**
2. **RAFFLE – St. Mary’s Academy**
3. **TAG – Dover Baseball, Inc.**
4. **RESOLUTION: B10033 TOLEND AND WATSON RD ENGINEERING SERVICES**
SPONSORED BY MAYOR MYERS BY REQUEST
5. **RESOLUTION: B09100 VIDEO SECURITY SYSTEM**
SPONSORED BY MAYOR MYERS BY REQUEST
6. **RESOLUTION: TOTAL STATION FOR DOVER POLICE DEPARTMENT**
SPONSORED BY MAYOR MYERS BY REQUEST

COMMITTEE REPORTS

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

Mayor Myers asked the Council if they had any items they would like removed for further discussion.

Councilor Garrison asked to remove Item 13.A.4.

Councilor Carrier asked to remove Item 13.A.5.

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

Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 13.A.4; seconded by Councilor Garrison.

Councilor Garrison discussed the different bidders on the project, and asked about the scope of work presented to them. He noted that CMA was awarded the project and has worked for the City previously. He asked if any change orders have been put in for these other projects.



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City Manager Joyal explained the process that the City uses on large construction projects; a qualifications based bidding process.

Mayor Myers asked for the City Manager's recommendation if the project was pushed back one year in the CIP.

City Manager Joyal recommended that the Council go forward with this Resolution.

Roll Call Vote: 9/0.

Deputy Mayor Trefethen moved for the approval of Item 13.A.4; seconded by Councilor Cruikshank.

Councilor Carrier referred to the discussions on security at the McConnell Center.

City Manager Joyal said this system would address security concerns in all the City buildings listed.

Roll Call Vote: 9/0.

B. RESOLUTIONS

1. RESOLUTION: AD-HOC FINANCIAL POLICY REVIEW COMMITTEE SPONSORED BY MAYOR MYERS

Mayor Myers moved for its adoption; seconded by Councilor Cheney.
Vote: 9/0.

2. RESOLUTION: SETTING OF PROPERTY TAX CREDIT FOR VETERANS FOR FY2011 SPONSORED BY DEPUTY MAYOR TREFETHEN

Deputy Mayor Trefethen moved for its adoption; seconded by Councilor Weston.
Roll Call Vote: 9/0.

3. RESOLUTION: APPOINTMENTS TO JOINT BUILDING COMMITTEE WOODMAN PARK SCHOOL SPONSORED BY MAYOR MYERS

Mayor Myers moved for its adoption; seconded by Councilor Weston.

Councilor Cheney submitted paperwork to the Council. She spoke about her discussions with several attorneys who all agree that the Council is in violation of the State statute. She said the Council still hasn't received a written opinion from City Attorney Krans. She said she would abstain from the vote.

Mayor Myers made a point of order that if a Councilor was planning to abstain from a vote it was supposed to be done at the earliest possible moment, and then they leave the Council dais. He asked Councilor Cheney to rethink her position on abstaining from the vote.

Councilor Cheney said she has read the rules and will still abstain from the vote.

Mayor Myers asked the City Manager and City Attorney for guidance on the rules.



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City Manager Joyal said the Council Rule, Section 5-K stated: "Council members should only abstain from voting on a matter before the Council in limited circumstances involving a conflict of interest or other potential Oath of Office, City Charter or ordinance violation. The Council Member shall inform the presiding officer of their intention and reason for abstaining immediately following the motion and seconding of the question pertaining to the matter, but prior to the start of the debate (the Council Member abstaining may not move or second the question to be considered.) Only the Council member may decide if there is a need for their abstention based on a conflict of interest or other potential Oath of Office, City Charter or ordinance violation. Compliance with Chapter 22 of the Dover ordinance is required. In the event of an abstention the abstainer in effect, "consents" that a majority of the Council Members may act for him or her. Council Members abstaining from consideration of a particular item shall leave the Council dais and join the public observing the proceedings until conclusion of action upon the item as determined by the presiding officer."

Mayor Myers asked Councilor Cheney to leave the Council dais if she planned to abstain from the vote. Mayor Myers said any written submissions from Councilor Cheney will not be part of the record. He asked the City Manager or City Attorney to answer about what can be done about somebody's comments on the issue before they choose to abstain

City Attorney Krans explain the two reasons to abstain. The reason is a conflict of interest, and the Councilor needs to declare the conflict of interest. The second reason for a Councilor to abstain is they just don't feel like voting. The Council Rules states that every Council has a duty to vote, but they won't be required to vote. He said the public has a right to know that is the position of the Councilor. He said Councilor Cheney has not stated why she is abstaining from the vote.

Mayor Myers asked Councilor Cheney return to the dais and state her reason for abstaining from the vote.

Councilor Cheney stated: "During the oath of office I swore to the regulations of the constitution and laws of the State of New Hampshire, the Charter and Ordinances of the City of Dover. In light of it all I feel there is a violation of the State statute, and therefore my oath of office, and I am abstaining from voting on this Resolution."

Mayor Myers suggested that the Council move on with the discussion and vote on the Resolution.

Roll Call Vote: 8/0. Councilor Cheney abstained.

C. ORDINANCES IN 1ST READING

1. CHAPTER 3, ADMINISTRATIVE CODE, BOARDS AND COMMISSIONS – JOINT FISCAL COMMITTEE (TO BE REFERRED TO A PUBLIC HEARING ON JANUARY 27, 2010.) SPONSORED BY DEPUTY MAYOR TREFETHEN AND COUNCILOR WESTON

Deputy Mayor Trefethen moved to refer to a public hearing on January 27, 2010; seconded by Councilor Weston.



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Deputy Mayor Trefethen said they have to update for some of the dates in this Resolution and they will be incorporated into a substituted version.

Vote: 9/0.

14. COUNCIL CORRESPONDENCE

- A. Letter from Commissioner Thomas S. Burack to Ms. Loretta B. Chase**
- B. Letter from Commissioner Thomas S. Burack to Mr. Jonathan Mitchell**
- C. Letter from Commissioner Thomas S. Burack to Mr. Thomas Fargo**

Deputy Mayor Trefethen moved for the acceptance of Council Correspondence; seconded by Councilor Cruikshank.

Vote: 9/0.

15. COUNCIL MATTERS OF INTEREST

Councilor Weston said the Joint Building Committee does two reports monthly: progress and financial. She asked if the Council wanted copies of the full report or a brief summary.

Councilor Cheney said the full reports are available online.

The consensus was to receive a summary.

Councilor Cheney said the paperwork that she submitted was presented as a Councilor and should be submitted as such. She said she spoke with the City Attorney after the meeting last week and he asked her to have one of the attorneys call him, but then there was a misunderstanding that the City Attorney couldn't talk to her. She said she received an email last night at 8:30pm, and she decided to call the attorney to ask him to clarify this. He said he was authorizing you to talk to Catherine Cheney about any and all matters without exception, and she is to be treated no differently than any other Council member. She said she did expect her correspondence to be put into the meeting minutes.

Mayor Myers said the Council has already chosen not to accept the written submission, and the Council has already accepted the Council Correspondence. He asked the Council if someone wanted to put forward a motion to suspend the rules. He said he will not accept it, but that Councilor Cheney could put it on another Agenda.

16. ADJOURNMENT

Deputy Mayor Trefethen made a motion to adjourn; seconded by Councilor Cruikshank.

Vote: 9/0.