

**MINUTES
DOVER CITY COUNCIL
REGULAR COUNCIL MEETING
JANUARY 15, 2003
CITY COUNCIL CHAMBERS
7:00 P.M.**

1. MOMENT OF SILENCE

The Mayor asked everyone to join him in a moment of silence.

2. PLEDGE OF ALLEGIANCE

Tweedie led the Pledge of Allegiance.

3. ROLL CALL

Mayor Pro-tem Dunnington, Councilors Hindle, Keays, Mayberry, Quigley, Tweedie, Whitmore, Christenbury and Nossiff were all present.

4. PROCLAMATIONS/AWARDS

The Mayor stated on behalf of every citizen in Dover, he wants to recognize assistant principal McNally and principal Bentley (O'Connor) for awards received this week from the State of NH for being the finest principals in the State.

5. CITIZEN'S FORUM

Jerry Reese of 2 Crestview Drive comes both as a citizen, tax payer, parent and Chair of the government affairs committee of the Chamber of Commerce on the two public hearings. He is hoping they take the Planning Board's recommendation of 2.5 million dollars for land acquisition and put it in the next CIP. If we delay, the land will not be available. Secondly the zoning before them is the most difficult issue that they will have to deal with, property rights and people's neighborhood rights, in the end it is what is best for the City, not a ward but a city. We cannot afford another school. If we continue to allow residential development we will need another elementary school. He feels we need to keep the interest of the whole city before them. He quoted the mayor of a couple of weeks ago, saying that you will be remembered for what you didn't do, this is not one of those things.

Martha Haley 407 Sixth Street believes it is very important to keep the communication lines open, she feels it is important to the City to consider the needs of the zoning. The Planning Department has spent many hours working on the zoning. We must consider the future of the city as a whole. Every private citizen has a public responsibility and obligation to the city.

Dave Dupont of 24 Lisa Beth Circle stated his mom lives here and he has been around this town all his life. Life has changed here; he is deeply concerned about our lovely city. There is uncertainty that surrounds the re-zoning. He read a prepared statement; Dover's residential zoning policy has allowed schools to be overburdened. Past city councils have lacked the political courage to address this issue. The future direction of this small city is in our hands, please preserve what has caused us to live here in the first place.

Don Cheney of 53 Back River Road and a big tax payer thanked the council for the opportunity to speak tonight. He is in favor of the 2.6 caveat in the CIP. He knows if we pay off 2.5 million we can put it back into open land. There should be no additional burden.

David Scott of 220 Back Road is a freshman State Representative representing district 71, also a certified general appraiser, and has appeared before the qualified tax board in MA. He shares the objectives in the zoning plan that is in the plan but he objects to the methods. He wants to make sure the city does not undergo legal problems. He feels the wetlands amendment will trigger lawsuits. As he looks at the document that was printed in the newspaper it refers to 170.28, as he looks in the zoning book, the section that pertains to the waterfront should say 170.27.1. He does not feel this is clear to voters and to avoid potential lawsuits for the City, he wants this section thrown out.

Doug Dede of 143 Locust Street is here in favor of the recommendation of the wetland jurisdictional change of a 50 foot setback. More importantly there is a process for redress in this city as well as in other cities for specific situations. Property rights are respected here and each case is tested on its own merits. It does not expose each application to the review process. He continued to explain the process as he sees it.

Jack Story of 2 Chartergrant Road is representing the Chamber of Commerce and their board of directors. They feel the rezoning is vital to attract new business and to provide more land for business opportunities as well as for people to live and work here. The Chamber has consistently supported rezoning, they also do believe in preserving open space as evidenced by the percentage of land use. We have always provided sufficient land for housing; this has put a strain on city services however. Together they need to preserve the quality of life in Dover. By not taking steps now to preserve the very high pace of residential development will saddle Dover with very high taxes in the future. The 1998 master plan says it best, if Dover does not move now to rezone its land, they run the risk of forever losing it to residential development. Tonight they are only talking about 100 acres. He then urged them to bond the additional funds for open space. He also urged them to approve the entire zoning ordinance.

Richard Hughes of 51 New Rochester Road is here to speak about the council rules and item #5, citizen's forum on the agenda. He read his concerns; he feels the way they were presented is all wrong. He felt there should have been a waiting period before adopting the rules. He read the part that states he is not allowed to speak on what he wants instead of getting permission from the council to speak on what he wants to.....he continues to quote former Mayor Boc. He stated these new regulations seem to diminish the duties and power of the Mayor a process that started over a year ago. The new rules will discourage public participation of ideas.

Wes Tator of 12 Landing Way in Dover is a commercial realtor here and is in favor of these zoning changes and acknowledges that this process that he has participated in and learned from has been going on well over a year and is up for the opportunity to make something happen in action tonight. He encouraged them to support the zoning ordinance.

Bill Asbell of 4 Hall Street, in the introduction, he thought he could ask questions, so he will. He is in favor of the objectives of increasing green space here in Dover. There are 41 items up for change, he proceeded with his questions. The mayor tried to answer his question by explaining the rules on the vote of the zoning amendments saying that some items have a legal protest filed and they will require a certain number of votes. Christenbury states point of order, if the item does not have a petition, it only takes 3 votes of council to pass it. But it takes a 2/3 vote to overrule the Planning Board. The other question he has is section #26 that relates to the wetlands protection district ordinance; he finds the 50 foot rule misleading. He explained his setback concerns, this will increase the wetlands from 1% of existing property and it will increase it to 24% of the property in Dover. The last question is on the format of the documents, he wondered why it was put out to the public with no ability to

compare it to the original document. Whitmore clarified in the previous ordinance, this one is only internal wetlands.

Dr Leonard Lord of 538 Central Avenue is a certified wetland's scientist at his place of business. He is addressing the wetlands part clarifying the previous person's questions that it will increase the amount of wetlands that will have a buffer around them. We will still have the same amount of wetlands in the city. He says there is evidence that wetlands need buffers and the state recommends a 100 ft buffer.

Lou Mroz of 51 Toftree Lane in Dover has lived here 28 years. He is impressed by his fellow citizens and is here admiring his fellow residents. He is sure the decisions will be based on money. The quality of life of 1978, when he moved here no longer is. The traffic is crazy; you can't come from Newington to Dover at 4 pm 5 days of the week. Whatever it costs him, he is willing to pay the extra money to maintain the quality of life we currently we have.

Trudy MacAtavey of 34 Mt. Vernon Street stated he had moved here 30 years ago, she is sorry to see some of the changes that have come about recently. She hopes the Planning Board will get support this evening and she wants the Open Lands request funded as soon as possible, she hopes the people of Dover appreciate the work the Planning Board has done, she feels they are well thought out decisions.

Vince Kasabian of 76 Columbus Avenue states one of his fears is we are looking at the exterior only, at what cost do we lower the tax rate, traffic is ridiculous. He then explained what bothers him about rezoning, Resident 40 to I-4, this is not true, and you cannot tell him nothing has changed. They did not do rezoning in 1998 and 1999, he is from Columbus Avenue, and you are asking him to subsidize the citizens of Dover. In an industrial area we must be very careful, lastly he hopes they are considering the type of business that we are considering bringing to Dover. Hi tech is not going to come to Dover, it won't happen. It will be an ugly city with industrial types of businesses.

Ron Cole of 1 Evans Drive, Chair of Planning Board, was rushing to get here, when he walked in, he thought that he had missed the public hearing. He then gave a brief overview of the process they used to come up with the many recommendations. They had started that back in June and it did not just take the Planning Board, but it also took about 30 citizens of the city from all walks of life spending mega hours to come up with these recommendations. He has never seen that much time and so many citizens work on a recommendation. They looked at every area of the community to bring us to the point where they are now. If they do not ratify the vast majority of these amendments, there will be more people here to cause more traffic jams in the future. The reason we are doing this is for 20 years down the road. The area will change even more. Listen to what everybody has to say and make the right decision.

David Landry of 5 Trakey Street is here on rezoning and the CIP, he is very proud of all those citizens who worked on this. He is also a member of the Planning Board. The objective is to provide balance here, if they remove too many of these items, they will endanger balance. If you have not picked up on the importance of protecting wetlands in the past 5 years, you would have to have been in an isolation booth. He has been the quality of life committee chair and these proposals came from that committee. If we fail to protect wetlands, we are failing to protect drinking water supplies and you fail to protect the health and safety of the people. He commented about the council he had served on when zoning came up last. The council he sat on also supported the open space protection with funding in the CIP. Land appreciates in value, not too many things do. Five years ago he would have recommended \$500,000 each year but that has not happened and we are running out of time. He recommends the 2.5 million as does the Planning Board recommend. He mentioned the amendment in rezoning for expanding the

flexibility on elderly care housing. There are only two organizations here in the urban core that provides this and it is a challenging business. He urged their support on this item.

Don Wood of 12 Dover Point Road has a question on the wetlands and the expansion of 24%; he feels the definition is being changed. The mayor interrupted him saying that Stancel would address this.

Martin Baker of 14 Grady's Lane moved back to NH a year ago after 8 years in NY, he urged the council to approve the bond for open space. The more land we can set aside the better off we will be. The traffic and congestion and not caring in NY anymore he would like Dover to be able avoid. He hopes that they consider what can happen. He would like them to rezone now and not two years from now.

Edward Koza of 5 Berkshire Lane is here on the leaf pickup (or non-pickup) in November. He continued about the problems of the leaf pick up, it was necessary because of the non action in his neighborhood. He had made numerous calls to City Hall with no help. He commented on Tweedie's email to Mr. Beecher stating he had asked that something be done. He does not feel Beecher's response is a laughing matter. Mr. Beecher's remark about Rick Hebbard picking up the leaves was sarcastic, inappropriate and unprofessional. He should be directed to apologize to the citizens of the City and this reprimand placed in his file.

Glen Jerry of 33 Wallace Drive is here regarding the rezoning, he asked for a show of hands of people who are against rezoning. A lot of people raised their hands. He is speaking about #14 and #15 amendments. He showed a map of what is being rezoned. He compared us to Florida that he says has no problems. Also he has 101 signatures against this, rights are being violated. He read a prepared statement. He feels if rezoning goes thru, it will increase the house taxes here. In 2001 there was 48.3% assessed value increase (this info from the city's website). He continues on numbers, the people in his neighborhood are very sensitive to the growth here. He does not agree with Christenbury's statement in tonight's paper that if zoning does not go thru we will need a new school now. Lastly he has a question to Mr. Cole, since he is a member of that Planning Board, is Christenbury's vote allowed tonight. The Mayor says yes. Mr. Jerry verified, if the State of NH Planning and Zoning chapter, 676.5 protest petition states a favorable vote of a 2/3 of all members present and voting. The Mayor clarified again that it takes 6 votes in the affirmative to override a protest.

Jay Griffes of 3 Wallace Dr is here to express his strong opposition to rezone his neighborhood. He feels this is an issue of property rights. He read a statement, if they vote yes on these amendments; they will be a virtual island in an industrial area. They are being asked to sacrifice their property rights for the citizens of Dover. He urged them to vote *no* on items 14 and 15 tonight.

Anna Boudreau of 9 Northam Drive is in favor of the Planning Board's recommendation to bond for open space. She feels there is a balance between development and open space. She feels it is good to have money in hand when applying for matching grants. She is also in support of the wetlands protection ordinance; she is concerned about water quality. Wetlands provide a buffer zone. In Dover 100% of our water is from groundwater. She added we all share 1% of the earth's waters.

Jerry Towle of 83 Columbus Ave hears what is best for Dover thrown around. He does not agree, you will bring his family out of Dover. They just want to live there on non-industrial land.

Ron Pfeiffer owns and operates Wadleigh House on Summer Street with his wife and he appreciates the quality of life here in Dover. He and his wife feel the elderly feels threatened

because of a lack of vision, Dover has taken a progressive stance in this area with this rezoning. There is nothing worse than when poor placement takes place for families who have members with mental illness. He says he has turned away 200 people in the last seven years. He feels homes of his nature advocate a hominess place for the elderly. He is speaking for the community and the taxpayers and the housing issue. He would like this dealt with in a sane and rational manner

Scott Myers, Chair of DEDC and citizen of Dover as well as a father. He is here in favor of changes to the city wide rezoning effort. Once this land has houses on it, we have lost it forever. We need to strike a balance thru rezoning. He mentioned Enterprise Park and the positive impact it has had here. He explained the I-4 district and what it permits; nobody is being forced to move as a result of rezoning. He continued on the impact of rezoning. These changes are in the best interest of this city.

Peter Bixby of 69 Glenwood Avenue is concerned with the rapid loss of open space in Dover, once it is built on, it cannot be returned to open space. It also makes for a healthy environment for children to grow up in.

Cheryl Downs of 200 Sixth Street would like to recommend that they bond the funding for the open space; it would only be 14 cents per \$1,000 evaluation here. That is a small price to pay for preserving open space; we cannot do without less natural resources.

Arthur Corte of 81 Glen Hill Road stated the reason we are here is that the seacoast has been discovered. The advantages here are in a rural environment that makes this one of the nicest places to live in the country. Unless something is enacted now, we will end up looking like Nashua. He fully supports the changes.

Ted Anglace of 23 Wallace Drive wanted to make the point that others have not. He built here in 1998; it seems we are going to keep replaying the votes until we get the results that are desired. He does not want to look out his window and see the back side of a factory. There are all kind of business items that go on in an industrial area and he does not want that to happen to his neighborhood. Their road has been rebuilt but is still not suited to industrial. This would also be a safety issue for kids that live there. We must live within our means. This is how democracy works. He urged them to vote no on the Littleworth Road/Columbus Avenue rezoning.

Susan Martinen of 27 Wallace Drive is in opposition to the rezoning. She is a single professional mother who chose to move into this area and wants to keep the quality of life for them. She wants to insure her property values. We need to find ways to deliver services in a creative way. She would like them to evaluate and determine what makes sense for the long term; she asked have we looked at what businesses are going to look like in 20 years. We want to keep people on this side of the bridge to live and work here, we need a balance, she agrees. We need to look at what is the business of the City. We do not have the connectivity and services that Portsmouth has. If they cannot sway their decision, she would like the Planning Board to go back and look for additional ways to block growth and site traffic from those areas.

Doyle Skeels of 120 County Farm Rd in Dover understands the difficulties in rezoning. He is also very much in favor of the protection of open lands. He is also a big fan of wetlands as well. He does take issue with the #26 amendment and the certified wetlands specialist. They recently hired a soil scientist to evaluate his wetland property; this was a long complicated and expensive proposition. He feels they need to look at this procedure carefully.

Richard Wamsley of 7 Wallace Drive is senior management for a local company since 1999, if this rezoning goes thru it will be dirty Dover all over again.

Debra Dineen of Dover Main Street is here to support the rezoning package. Some of the things involve the downtown and these things make good sense for Dover.

Norm Champagne of 13 Church Street has heard people stand up and spend whatever it takes to preserve open space here. For himself he cannot afford to spend that amount. His property taxes have doubled in the last two years. He does not feel we need to buy any land. A lot of people have said they moved to Dover for the quality of life, he feels if we are going to purchase land to provide hiking trails, etc., he would be willing to buy the development rights thru bonding but not buy the land. There is nothing in this rezoning that is going to stop the tax rate from going up. He says this council campaigned on stopping the unbridled taxes in Dover. He does not support the \$100,000 that will probably be passed for the school tonight. He mentioned the fact that Mr. Hebbard would go out and pick up the leaves and that the previous gentleman should not have called Mr. Beecher's comments objectionable.

Roger Groulx of 278 ½ Dover Point Road is here in favor of the wetlands and aquifer protection law. He pointed out that this is long overdue. Also that the board of appeals can override the buffer.

Tony Martuscello of 11 Oak Street has purchased property on Long Hill Road to build on; he is opposed to the wetland ordinance as it stands. He feels he was not properly notified and the impact is not clear. His new property will now have 35% less buildable space, he just found out about this through Fosters paper.

Robert McCrone of 76 Sixth Street has lived here for 66 years and in his home here for 46 years. He was asked to be here for open space. His short statement is ... yes, buy open space. Will the public have access to the open space or just look at them. There has been a lot of publicity. The city owns 33 acres of prime land on the waterfront and they want to develop it to be in competition to our downtown businesses. Buy more open land but do not squander what we have. For 40 years he has heard zoning and master plans, they do not work, they never will, why because they are always changed. There is no yellow brick road leading to Dover. No town or city will ever be the "Land of Oz". His taxes have increased 50% or \$1000. He thanked and blessed the council for sitting in their seats.

Karen Wendell of 120 County Farm Road is here with her husband Mr. Doyle Skeels. She commented on the person, who was not properly notified about this wetland ordinance, she feels the same way. They have been talking about building a new house on County Farm Road and she would have listened. She reiterated what her husband has said. The soil scientist was extremely expensive and that was for just one piece of land, you cannot make this a huge burden on people.

John Scruton of 99 Sixth Street is for bonding open space here in the city, there is no evidence that commercial development has ever lowered taxes.

Jack White 9 McKenna Street is here for open space and was not aware of this rezoning issue; he is in agreement with Norm Champagne. He is against the bonding.

Cristina Hollinger of 346 Back Road tried to read about the items tonight, she found not much. She talks about how happy she is with the open space amendment. She has a question on #26 wetlands, and safe guarding the ground water, how will this affect her as there are endangered

species in her neighborhood and will they be affected. The Mayor answered her no. She also wondered about maintaining a full time wetland scientist, the Mayor does not know.

William Kish of 18 Wallace Drive is opposed to rezoning on Littleworth and Columbus Ave to industrial. He wants them to take a look at how many companies have walked away from Dover because of the lack of commercial land. He wants them to look at other middle size cities to see how they are going to drive good citizens out of the City because of lack of infrastructure.

Mike Graves of 17 Wallace Drive is against zoning amendments #14 and #15.

Steve Flewelling of 24 Wallace Drive is against # 14 and #15, these families have invested life savings and he is happy where he lives right now. If the land is zoned light Industrial, it will impact his property

Stacy Anglace of 23 Wallace Drive had to save up 20 years to buy her dream home on Wallace Drive, she asked each member of the council if they would like to look out their windows at industry, this is ruining her dream home.

Nick Skaltsis of 6 Erik Drive is here for the resolution on the million; two grant funding that has been cut. Secondly he feels rezoning will limit the number of children in the schools, also please appropriate the \$100,000 surplus school funds for FY03 and the school department. He is asking for one and half million in the CIP tonight for 8 classrooms at DHS and DMS.

Ruth Wilson, a resident of Dover and former business owner. She says that you talk of our children of the future. She wants to bring it to their attention that she is a child of the former past planning boards and city councils that might not have done as good a job as they might have.

Seeing no one else the mayor closed citizen's forum.

5. PUBLIC HEARINGS

- A. Ordinance #35-11/13/2002, Chapter 170, Zoning, Various Sections. Sponsored by Councilor Parks Christenbury, Planning Board Representative. **(SEE ITEM #11B-2)**

Brian Stern of 1 Pebble Hill Drive in Dover wants all the public comments that were made about rezoning in citizen's forum be combined under the zoning public hearing. He is against changing residential areas to industrial. In rezoning it will not slow growth. Secondly in taking residential land out of rezoning, would just shift the pressures, also he is against having additional residential land. By rezoning to enterprise, you would force land owners of 60 or so acres to not be able to subdivide their land. He has several concerns with this rezoning, one of his biggest concerns is agricultural lands and he was a part of the zoning subcommittee on open space that went thru a quick process and they did an enormous amount, but the agricultural lands was not done and it should be. He continued, there are some good things that are in the proposal. A moratorium can be put in place and legally upheld, there are concerns for the development pressures on open lands. He went on to explain. He also addressed the parcel on Central Avenue to Dover Point Road, this is a beautiful rural area near the Middle Road site; you would be defeating another portion of the rezoning plan. Then he addressed the waterfront area. He questioned whether or not the wetlands are defined by size; you need this buffer around wetlands.

Richard Close of 254 Dover Point Road (he signed sheet) is here about the revision of wetlands and he is against the adoption of this measure. People were not notified of the hearings, the second reason is the law is confusing, he has seen all kinds of people trying to explain it. What they are told is this does not apply to property owners; the fact is if you read the amendment, the city is going to engage a scientist or a botanist to detect these wetlands. It will then be up to the property owners to flag these areas with markers, this expense to property owners will be prohibitive. He questions the need for this amendment.

Marilyn Follansbee of 25 Dover Point Road is here about the small area from Thornwood to Dover Auto. The neighbors and she want the zoning to remain the same. She read the neighbors names and their wishes on how they want the neighborhood to be left alone.

Don Wood of 12 Dover Point Road commented on the reference of the part of Dover Point Road that Marilyn just talked about; he is favor of leaving it zoned as it is.

Karen Wendell again of 120 County Farm Road has a question on the wetlands and on the flags and are they forever.

Steven Dibble is representing Matt and Helen Williams of 26 Dover Point Road and their objection to zoning change section #7 of the amendments. This area would be of no consequence to the city if this parcel is zoned ETP, it will take the William's retirement away from them. Please give serious consideration to removing section #7.

David Scott again, when he took his seat as State Representative, he took an oath to uphold the NH constitution. In his view article 2, 10 and 19 violate people's property rights, the way the wetlands regulation is written is a handcuff for 2,000-4,000 small property owners in Dover. He is part of the Great Bay Water Watch; he measures the water in front of his house. There must be a balance, he gave an example of how completely unfair the regulation is. There was not adequate notice; it referred to chapter 28, waterfront property. Jeff Hollinger and he went to see Stancel, there is no map showing the new wetland areas, if you have one pussy willow you will block out 50 square feet. Also, if you have wetlands, you cannot do landscaping or a driveway, the State has very good wetland buffers. He continued to explain. This will put the city under a barrage of lawsuits.

Bill Asbell of 4 Hall Street emphasized that many who have a problem with the way this wetlands is written do not oppose the wetlands, just the way it is written, the way he reads it with his masters in English literature, it is very, very confusing, it reduces people's property rights. He too, pointed out the typo. His biggest problem is there is no minimum square footage; property ownership is one of the basic rights and what the country is founded on. He appreciates their efforts

Chip Williams of 198 Back Road, Eliot Rose of Dover is opposed to the ETP rezoning; there currently exists 100's of thousands of acres in the Pease Tradeport. Also, it will increase peak hour traffic flow on Dover Point Road, he will oppose this rezoning.

Joyce ElKouarti of 112 Bellamy Woods is here on the rezoning, she stated this is for newly created lots only. She then explained the State's setbacks; this is a great opportunity to protect wetlands as well as protecting people's property rights. She also urged them to support the entire rezoning ordinance as a result of their studies which reflect the respects of the citizens. People are in favor of it, if we do not rezone, these parcels will be developed within the next 5 or 10 years for residential use.

Norm Champagne of 13 Church Street states as he listens to people from Wallace Drive and Back Road, this is their homes you are talking about, when people buy a piece of land on a cul de sac, then someone moves in and says they are going to put an industrial park in, this should never happen. Enterprise Park has never been a success story, it really bankrupted the city and we are probably still

paying for it. We were told Liberty Mutual would pay for our taxes; we cannot look at this whole rezoning thing as a way to make money. If you build a new school people will come, please take a more consideration for the citizens of Dover and a little bit less to the business people. Someone should stand back and see what we are doing to people. The council must realize they have to stop spending their, the citizens money. There does not seem to be a real plan to stop growth.

David Scott again, Portsmouth has a wetland definition of 20,000 sq ft., this he could visualize but with no minimum square footage, this is dreadful.

Richard Close again was cut off by the Mayor the first time; he now takes issue with the lady that said this amendment only pertains to new properties. This amendment is very poorly written.

Dr. Leonard Lord again, wetlands scientist is here to clear up some minor points, there has been a concern that a wetland scientist must be on hand for a subdivision; this is already required by State law. The other issue has to do with small wetlands, there are many small wetland of not much value, unfortunately some of them are of high value; you could separate them out but it would complicate things even more.

Donna Layton of 161 Back River Road thanked them for allowing her to speak on rezoning; she is in support of the 2.5 million for open space. She read her statement saying having open space will protect our natural resources.

Robert McCrone of 76 Sixth Street again states he has been a permitted septic designer since 1967. He urged them not to vote on the wetlands amendment. The State handles wetlands and every plan must be approved by the State and have the seal of a soil scientist, don't add a burden to the small landowner, good luck City of Dover, watch the tax rate.

David Scott AGAIN has discussed this issue with the state.....

The Mayor declared the public hearing is now closed.

~~B. Resolution RE: Appropriation for FY04 Capital Improvements Program and Authorization for Bonding. Sponsored by Mayor Alexander G. Nossiff, by Request. **PUBLIC HEARING ONLY**~~

~~**(SEE ITEM #12D-4 – Signed Petition – Bellamy Road Residents)**~~

~~C. Resolution RE: Fiscal Year Budget Amendment #3. Sponsored by Councilor Parks Christenbury III. **(SEE ITEM #11A-1)**~~

~~D. Ordinance #37-12/11/2002, Chapter 22, Code of Ethics, Repeal Sections 22-13 through 22-23, Article IV, Complaint Procedure; Sanctions. Sponsored by Councilor Parks Christenbury. **(SEE ITEM #11A-2)**~~

~~6. MINUTES~~

- ~~A. Council Workshop Meeting – December 4, 2002~~
- ~~B. Regular Council Meeting – December 12, 2002~~
- ~~C. Special Council Meeting – January 6, 2003~~

~~7. REPORTS OF SPECIAL AND STANDING COMMITTEES~~

- ~~A. Transportation Advisory Commission – Councilor Jason Hindle~~
- ~~B. Joint Building Committee (Horne Street School, DHS Mezzanine) – Councilor Jason Hindle~~

- ~~C. Planning Board – Councilor Parks Christenbury~~
- ~~D. Solid Waste Advisory Commission – Councilor Thomas Dunnington~~
- ~~E. Arena Commission – Brenda Whitmore~~

9. MAYOR'S REPORT

10. CITY MANAGER'S REPORT

11. UNFINISHED BUSINESS

A. ORDINANCES IN 2ND READING

- ~~1. Resolution RE: Fiscal Year Budget Amendment #3. Sponsored by Councilor Parks Christenbury III.~~
- ~~2. Ordinance #37-12/11/2002, Chapter 22, Code of Ethics, Repeal Sections 22-13 through 22-23, Article IV, Complaint Procedure; Sanctions. Sponsored by Councilor Parks Christenbury.~~

B. ORDINANCES IN 3RD READING

Dunnington moved seconded by Whitmore to suspend rules to go beyond 10:30 pm, to 11 pm. Motion passed 9-0 on roll call vote.

Dunnington moved to suspend the rules to bring forth the zoning ordinance at this time, seconded by Whitmore and Quigley. Motion passed on a roll call vote of 8-0.

1. Review of Zoning Protest Petitions/Correspondence

- A. **Nancy K. Quinlan** – Amendment #10
- B. **Nancy K. Quinlan** – Amendment #14
- C. **Nancy K. Quinlan** – Amendment #15
- D. **Marilyn E. Follansbee** – RE: Amendment #6
- E. **Stanley Goldberg** – Amendment #13

F. **PLANNING DEPT. MEMO RE: Proposed Wetlands Ordinance Changes**

- F. **David Scott** – Amendment #26

Dunnington read the protest petitions, also the one on #7 from Williams presented this evening from the Attorney. He stated we cannot categorize item F as a petition. The mayor says to understand the rights of council, he explained how the vote can go, in order to pass a petitioned item, and they must have 6 votes to pass it. The wetlands item will take 3 affirmative votes to pass it as we cannot acknowledge this one as a protest. Christenbury has some items to speak on.

- 3. Ordinance #35-11/13/2002, Chapter 170, Zoning, Various Sections. Sponsored by Councilor Parks Christenbury, Planning Board Representative.

LIST OF PROPOSED ZONING ORDINANCE AMENDMENTS

Amendments in bold have been protested and require a 2/3, vote of the members present and voting, to pass, otherwise 2/3 is needed to overturn the Planning Boards recommendations (unbolded). Any amendment to Planning Board recommendations require a two thirds vote to pass.

2. Gulf Road - Change RM-12 to R-40 and R-12 to R-40
3. Back River Rd - Change RM-20 to R-12, RM-12 to R-12, RM-12 to RM-20, and UMUD to R-12
4. Remove the 30K square foot lot reduction for R-40 District
5. Requires all uplands to be contiguous
6. **Dover Point Road – Change R-12 to B-3**
7. Dover Point Road – Change R-40 to ETP.....***
8. Central Avenue – Change R-12 to Office
9. Knox Marsh Road - Change RM-20 to B-4
10. **Littleworth Road - Change R-20 to B-4**
11. Central Avenue/Locust Street - Change RM-10 to O
12. New Rochester Road - Change R-12 to Office
13. **Littleworth Road - Change I-2 to I-4**
14. **Littleworth Road - Change R-20 to I-4**
15. **Columbus Avenue - Change R-40 to I-4**
16. Allow 1 Family Dwelling, 2 Family Dwelling, and 3 to 4 Family Dwellings in the B-2 District
17. Disallows convert of single family homes to two or more dwelling units in B-1, I-1 and I-2
18. Creates a Residential TDR district and updates Industrial TDR
19. Makes ADS mandatory for major subdivisions in the R-40 District and in the R-20 and R-12 Districts that meet criteria
20. Allows 2 Family Dwellings and 3 to 4 Family Dwellings in a PUD
21. Allows Veterinary Office, Animal Hospital or Kennels in a PUD
22. Allows Barber or Beauty Shops, Banks, Offices, Personal Service Establishments, and Theaters in PUD
23. Prevents Country Clubs, Gravel Pits, Junkyards, and Wholesaling in a PUD
24. Allows Adult Day Care in a PUD
25. Adds flexibility to Elderly Assisted Care Homes to add beds via special exception
26. Updates Wetland Protection District: single 50' setback, update definition, and provides for documenting boundaries
27. Updates Groundwater Protection District Ordinance – allowed uses and conditional uses.
28. Adds setbacks for Drive-Thru's next to residential structures
29. Removes allowance of Drive-Thru's in CWD
30. Impact fee ordinance
31. Add a new Overlay District for Scenic Roads
32. Updates sign ordinance
33. Henry Law Avenue - Change R-12 to CWD
34. River Street – Change I-1 to CWD
35. Allows 1 Family Dwelling, 2 Family Dwelling, and 3 to 4 Family Dwellings in a CWD
36. Creates footnote for Single Family Dwelling in CWD
37. Changes dimensional requirements for CWD
38. Increases maritime uses in CWD
39. ~~Adds definitions to Zoning Chapter~~
40. Creates a requirement for non-stacked parking
41. Replaces Public Works with Community Services
42. Replaces Alternative Design Subdivision with Open Space Subdivision

Christenbury stated #39 did not make the public posting, therefore they would like this item pulled, and this is in agreement with staff.

Secondly, Christenbury states on item #26, the public notice stated 170-28.1 instead of 170-27.1, this issue has been submitted to Ciandella and case law has overruled, this is a typo and it will not have any impact on the item as the verbiage is correct.

Christenbury moved to separate, item #39, Tweedie seconded the motion, all in favor.
Christenbury moved to refer it to a Work Shop on 2/5/03, Tweedie seconds to refer. All in favor.

Dunnington moved to divide the question on #6 separately, Mayberry seconds the motion. Mayberry asked if we vote to sustain the Planning Board, do we vote yes or no. The Mayor says we need a motion, all in favor of dividing,

Christenbury moved seconded by Tweedie to approve the item #6. Mayberry urged councilors to vote against this item, please allow this island of land to be as is. Christenbury explained the Planning Board's position on this item; this would give an option to property owners to use as a business zone. There are no conflicts. Motion fails on roll call vote of 4-4, Dunnington, Hindle, Keays and Christenbury in favor.

Dunnington moved seconded by Tweedie on a motion to divide item #7, all in favor. Quigley moved seconded by Mayberry to approve #7. Hindle speaks to this with regards to the TAC on the amount of traffic in the neighborhood and the issue with regard to the tolls; people divert the tolls and go thru the Dover Point Road neighborhood. He would like support in moving the toll, he wants the City Clerk to give him a copy of the sign in sheet, so he can contact the people on Dover Point Road. Christenbury says this is a 121 acre parcel and is a unique mixed parcel. The issue with traffic is with the state and tolls, Christenbury continues to explain, we need to put the investment in the layout, this would be a new ETP zone. The Mayor asked if there were any conflicts on the Williams property. Motion passed on roll call vote of 8-0.

Dunnington moved seconded by Quigley to divide #10, Littleworth Road, all in favor. The Mayor stated there are no conflicts, Whitmore moved seconded by Quigley to approve #10. Christenbury explained the Planning Board's position on it. Motion passes on roll call vote of 6-2, Mayberry and Whitmore opposed.

Dunnington moved seconded by Tweedie to divide the question, all in favor. Whitmore moved seconded by Mayberry to approve. Whitmore moved seconded by Tweedie to also amend item #'s 13, 14 and 15, she explained the land use law, see amendments in packet, she read them then, and discussion ensued on doing all 3 items. Whitmore will now do them individually, to contain the I-4 zone as read. Tweedie offered a friendly amendment. All in favor of amendment on a roll call vote.

Now it was decided to do #13 only, now for the main motion on #13, Littleworth Road. Whitmore moved seconded by Mayberry to approve as amended. Tweedie moved seconded by Hindle to suspend the rules to go to 11:30 pm. All in favor on a roll call vote. Keays asked if we already had two industrial parks on Littleworth Road, the Mayor says yes, at least two. Keays asked why do we need more industry out there; there is plenty of land there in the current parks. Christenbury feels a more appropriate use would be for an I-4, light industrial area. He stated this is just a change in designation. The main motion on item #13 passed on a roll call vote of 7-1, Keays opposed.

Dunnington moved seconded by Tweedie, to divide the question on item #14, Littleworth Road. The Mayor says this is almost unanimous, close enough. There were no conflicts on #14, Whitmore moved to approve and amend, Tweedie seconds motion to amend. Christenbury explained again, the motion passed 6-2 on roll call vote, Keays and Quigley opposed to amendment. Mayberry moved seconded by Tweedie to approve item #14 as amended. Quigley asked councilors not to pass this item; the value of the homes in this area will go down. Hindle says for the past three weeks he has received many emails and letters and when he makes a decision, he listens to everybody's concerns, business, residential or whatever. Whatever happens to this area as well as the Columbus Avenue item he would like residents to work with him on the TAC traffic issues, he feels however with this parcel as well as the Columbus Avenue parcel we will see an extension of services that we cannot afford. He wants to use this as a compromise for the city as a whole. With regard to the Littleworth issue, he will side with the residents on this item. He continued he has been redistricted out of the Ward 5 district; he encouraged someone from this area to run for council. Christenbury says these are difficult areas. Wallace Drive is a textbook area of why taxes are what they are in Dover. Christenbury explained the costs of additional services, there is no easy answer. The problem is the fiscal conservatives that have spoken here tonight. One gentlemen that spoke here said we needed a ½ million dollars for a shooting range a year ago, here we are a year later and the police department is doing fine without that. If we do not approve this, people will build here. When the money is right, land is sold, and the houses start coming, if we add 650 new housing units here, we will need a new school in five years. The planning staff has been working on this for over a decade. The two previous councils passed the buck on this issue. We need to bite the bullet. Mayberry commented, he agrees, also deer and turkey will be gone if more houses are built. The Mayor had a point of order; there was an interruption from

the back of the room from Paradise. Mayberry continued, developers will be here tomorrow morning if we leave this residential. Whitmore comes to this decision from a different perspective, zoning isn't in stone, it is not in granite, she has put the wheels in motion to protect her own land, whatever option this may take, we must find creative ways to preserve open space; that is her challenge. She feels this is a good opportunity to bank land for the future of Dover.

Dunnington says it has been a long night and we must keep in mind what this process is all about. He moved here in 1945, his house was built in 1850 by Thomas H. Cushing and they could not understand why he built so far out in the country. The whole purpose of this zoning is to bring this change into focus. This is a global approach to bring the City vision in line with the Master Plan. If you don't vote for #14 and #15, it will tear the heart out of this zoning ordinance.

The Mayor moved to suspend the rules to go to 11:45 pm, with no second.
Christenbury moved to go to midnight, Mayberry seconds the motion. All in favor of motion. The Mayor says so we don't have to do it again, he would like to recess after midnight to 2/5/2003. Again, Christenbury moves to stay in session to finish the zoning, Mayberry seconds the motion. Motion to suspend rules and stay in session to finish zoning passed on a 7-2 hand vote, Keays and Quigley opposed. The Mayor disagrees and feels this is inappropriate.

Quigley speaks on item #14 again.
Judy left, now Mike is typing....
Quigley hopes this item doesn't pass but most likely it will.

Nossiff recognizes Tweedie. Tweedie asks for a roll call vote on the motion to suspend rules. Nossiff believes the room will empty following completion of protest petitions. He prefers to go to midnight. Believes going later would do a disservice to the other matters including the wetlands amendment.

Tweedie made a motion to finish the amendments and the zoning seconded by Christenbury.
Mayberry speaks to it, the reason for the delay is because of the protest petitions, each one must be dealt with separately.

Tweedie has moved and it has been seconded by Christenbury. Motion passes on a roll call vote of 6-2, Keays and Quigley opposed.

Item #14 is before them and has been moved and amended, main motion fails on a roll call vote of 5-3, Hindle, Keays and Quigley opposed.

Dunnington moves to divide item #15, Tweedie seconds, hand vote approves on item #15.

Quigley/Mayberry makes a motion to approve R-40 to I-40. Whitmore amends to add the agriculture amendment. Christenbury/Tweedie moved on amendment.
Amendment on #15 passes on a roll call vote of 6-2, Keays and Quigley opposed.

Quigley has same feelings as last issue. He discusses impact of truck traffic along Columbus and possibly Tolend. Believes it will be a safety issue as road is not wide enough or made for large truck traffic. Quigley indicates that Planning Dept/board was originally for changing this to residential and restricting truck traffic. Main motion passes on roll call vote of 6-2, Keays and Quigley opposed.

Protest petitions have been completed. Nossiff indicates all have empathy for those that are affected and disenfranchised by these changes. Those that suffer from these amendments should consider the development of Sixth Street and how it has been undertaken. Planning Dept and Board/Council will not abandon the residents. No one intended to harm anyone. The Mayor believes that we can work together. This is the greatest city in this country. He knows they are bitterly disappointed, they have empathy.

Nossiff recognizes woman from Wallace Drive. She wants to work with Planning Board. Christenbury relates how Planning Board and staff have worked and will work with residents affected by development. Christenbury does not see anything happening down there for a long time.

A resident (Mr. Jerry) submits petitions to Nossiff. They are put in City Clerk materials.

Nossiff reviews status of remaining zoning amendments and indicates options for continuing. He asks if anyone wants to remove any additional items from those items that remain. First thing to do is bring balance of items onto the table, then identify if anyone needs to separate out any items, then vote on individual and remaining items.

Dunnington moves to adopt remainder of zoning amendments, Tweedie seconds the motion. It passes unanimously, except for #6,#7,#13,#14, #10 and #39 with show of hands.

Nossiff asks for any interest in removing individual item.

Mayberry advises of business interests creating conflict on #3, #17 and #26.

Quigley/Whitmore motioned to divide – hand vote, all in favor.

Christenbury/Hindle motioned on item #3. Motion passed on a roll call vote of 7-0, Mayberry abstained.

Dunnington/Tweedie motioned to divide #17, all in favor.

Christenbury/Tweedie motioned to approve #17. Motion passed on a roll call vote of 7-0, Mayberry abstained.

Dunnington/Tweedie move to divide #26, all in favor.

Tweedie/Christenbury moved to approve #26.

Christenbury does not believe it is confusing. Planning Board sees wetland incursions frequently and this gives some sort of buffer. This one issue is one of the most heavily researched issues by staff, attorneys, and State officials. The issue became confusing because of the press. Quigley says constituents came forward and we indicated that Stancel would speak to questions. Now residents have gone home and we did not address the questions. He feels this is a disservice. There is a lot of confusion; Quigley makes a motion to move to another workshop meeting on Feb 5th to give the public more input. No second.

Original motion on item #26 passes 5-2 roll call vote, Keays and Quigley opposed. Mayberry abstained.

Whitmore moves to divide item #33 Tweedie seconds the motion, all in favor of dividing Henry Law Avenue item.

Tweedie/Mayberry motioned to approve #33. Tweedie moves to amend footnote and he reads it, Christenbury seconds the motion. Motion passes on a 5-1 roll call vote, Keays opposed. Quigley and Whitmore abstain.

Motion by Tweedie seconded by Christenbury on #13 as amended passes on a roll call vote of 7-0, Whitmore abstains.

Nossiff inquires about the rest of the items, Wattendorf clarifies this is OK.

Christenbury/Tweedie made a motion to adopt the balance of items. Motion passed on a roll call vote of 8-0.

C. RESOLUTIONS

12. NEW BUSINESS

A. ~~CONSENT CALENDAR~~

- ~~1. Raffle Permit – Riverside Rest Home~~
- ~~2. Raffle Permit – Saint Mary Academy~~

B. RESOLUTIONS

- ~~1. Resolution RE: Award of Blanket Purchase Order for Miscellaneous Work Boots/Shoes and Fitness Footwear. Sponsored by Mayor Alexander G. Nossiff, by Request.~~
- ~~2. Resolution RE: Award of Change Purchase Order for Additional Engineering Design Services for the Henry Law Avenue Reconstruction Project. Sponsored by Mayor Alexander G. Nossiff by Request.~~
- ~~3. Resolution RE: Establishing a Municipal Records Committee. Sponsored by Councilor Jason Hindle.~~

~~4. Resolution RE: Appointments to the Open Land Committee. Sponsored by Councilor Jason Hindle, Chair, Appointments Committee.~~

~~5. Resolution RE: Authorization to Abandon Franklin Court Right-of-Way and Convey Same to First Savings and Loan Association. Sponsored by Mayor Alexander Nossiff, by Request.~~

The Mayor says we are about to adjourn but he asks Mr. Beecher if the council needs to take up any business.

Beecher asks the council to take up public hearing items 11-B.6 thru 9.

Tweedie/Christenbury motioned to suspend rules to address items 11-B.6 thru 9. Motion passed 8-0 on a roll call vote.

6. Resolution RE: Acceptance of Wildewood Lane, Boxwood Lane and the Remainder of Cottonwood Drive as City Streets. Sponsored by Mayor Alexander G. Nossiff, by Request.
(To be referred to a public hearing on 02/12/03)

Dunnington moved to refer to a public hearing on Feb 12, 2003, seconded by Tweedie. All in favor by hand vote.

7. Resolution RE: Fiscal Year 2003 Budget Amendment #4 – Capital Reserves. Sponsored by Mayor Alexander G. Nossiff, by Request. ***(To be referred to a public hearing on 02/12/03)***

Dunnington moved to refer to a public hearing on Feb 12, 2003, seconded by Tweedie. All in favor by hand vote.

8. Resolution RE: Amendment to City Charter – Sections C2-11, Recounts/Contested Elections; C2-13, Display of campaign materials at polling place restricted; C3-3, Selection of Mayor and Mayor Pro Tem; C10-2, Conflicts of Interest. Sponsored by Mayor Alexander G. Nossiff, by Request. ***(To be referred to a public hearing on 02/12/03)***

Dunnington moved to refer to a public hearing on Feb 12, 2003, seconded by Tweedie. All in favor by hand vote.

9. Resolution RE: Amendment to Dover Utility Commission Rules and Regulations – Section 2- Charges and Billings – Mobile Homes. Sponsored by Mayor Alexander G. Nossiff, by Request. ***(To be referred to a public hearing on 02/12/03)***

Dunnington moved to refer to a public hearing on Feb 12, 2003, seconded by Tweedie. All in favor by hand vote.

Quigley made a motion to recess until 6pm on Feb 5th, seconded by Tweedie. Passed by all.

C. ORDINANCES IN 1ST READING

~~1. Ordinance #01-01/15/2003, Chapter 166, Vehicles and Traffic, Section 166-56 and 166-57 – No Parking – St. Thomas Street. Sponsored by Councilor Jason Hindle, Transportation Advisory Commission.~~

2. ~~Ordinance #02-01/15/2003, Chapter 166, Vehicles and Traffic, Section 166-56, No Parking at Any Time, Court Street. Sponsored by Councilor Jason Hindle, Transportation Advisory Commission.~~
3. ~~Ordinance #03-01/15/2003, Chapter 166, Vehicles and Traffic, Section 166-53, Schedule F, Commercial Vehicle Travel Restricted, exempting School Buses. Sponsored by Councilor Jason Hindle, Transportation Advisory Commission.~~
4. Ordinance #04-01/15/2003, Chapter 100, Elections, Adding Section 100-5, Elections Assistants. Sponsored by Councilor Matt Mayberry.

D. COUNCIL CORRESPONDENCE

1. A T & T Broadband — regarding merger and name change
2. ~~Wetlands Application — Paula Forbes~~
3. ~~Wetlands Application — Gregg Gentile~~
4. ~~CIP Petition — Requested Priority Allocation for Improvements to Bellamy Road~~

13. COUNCIL MATTERS OF INTEREST

14. ADJOURNMENT

**Judy Gaouette,
City Clerk**