

**MINUTES
REGULAR COUNCIL MEETING
APRIL 11, 2001
DOVER CITY COUNCIL
COUNCIL CHAMBERS
7:00 P.M.**

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

Reese led the Pledge of Allegiance.

3. ROLL CALL

Members Present: Councilors Reese, Schmidt, Andrews Parker, Mayor Pro Tem Berry, Mayor Boc, Councilors Dunnington, Hindle, Mayberry, and Nossiff.

4. MAYOR'S REPORT

The Mayor noted that last year he had started the unsung hero award, which he calls the Mayor's Award. Tonight he is presenting the Mayor's Award to Dr. Skip Small. He read the proclamation. He presented Dr. Small with the key to the City. Then, he read the Sexual Assault Proclamation and presented it to Cathy Burns from the agency. Next, he noted that on 3/26 he attended the Planning Board seminar on residential growth. Those issues will be ongoing. On 3/29 he attended the Dover Police awards and stated Detective David Terlemezian received the employee of the year. On 4/10, he attended the State of the State address by Governor Shaheen. Also, Governor Shaheen will be in Dover City Hall tomorrow regarding the education-funding crisis. Andrews Parker was appointed the North End Fire Design Committee Representative.

Berry moved to accept, seconded by Hindle. All in favor.

5. PUBLIC HEARING

- A. Resolution RE: Amendment to City Charter Section C3-3 Entitled "Selection of Mayor and Mayor Pro Tem". Sponsored by Councilor Jason Hindle. **(See 10.C.1.)**

Seeing no one, the Mayor closed the public hearing.

- B. Resolution RE: Resolution RE: Acceptance of the Action Plan Expenditures for The Fiscal Year 2001 Entitlement Funds and Modifications of the FY2000 Action Plan Expenditures of the Community Development Block Grant Program. Sponsored by Mayor Wil Boc, by Request. **(See 10.C.2.)**

Berry stated there is one correction. The \$45,000 should read \$46,000.

Monica Zulaf - 9 Grove Street, Somersworth. She works at the HUB Family Center and is the parent educator. She would like this resolution passed this evening.

Seeing no one else, the Mayor closed the public hearing.

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- C. Ordinance #02-03/14/2001, Chapter 143, Scenic Roads, Sections 143-1 through 141-4, updating RSA references. Sponsored by Councilor Jerry Reese, Planning Board Representative. **(See 10.A.1.)**

Margaret McLaughlin of 409 Old Garrison Road is in support of this ordinance. They had an issue last year and feels this ordinance will solve part of the problem and act as enforcement of the next ordinance 5.D.

Dave Clough is the Plant Manager of Brox Industries. His company would like the ½ mile of Rochester Neck Road eliminated as being a scenic road. He asked if there would be any restitution for the 50 feet of land taken.

Seeing no one else, the Mayor closed the public hearing.

- D. Ordinance #03-03/14/2001, Chapter 170, Zoning, Section 170-28.4, Scenic Road Overlay District. Sponsored by Councilor Jerry Reese, Planning Board Representative. **(See 10.A.2.)**

Jack McLaughlin of 409 Old Garrison Road supports this ordinance as he values the protection that it will give to the scenic road and he feels that this is very important that the character of the scenic road is maintained. He is grateful for the work that has gone into this ordinance by the Planning Department.

Paul Haas of 401 Old Garrison Road feels this is a reactionary step that was taken because of last year. He states David Tuttle Lane is a scenic road. Rochester Neck Road may be. Mr. Haas did not even know it is a scenic road. He was also under the impression that Three Rivers Farm is also a scenic road. He would like the character of the road retained. He supports the ordinance for Old Garrison Road. He stated, he has lived there for almost two years. If the only action is complete action, he will support it. Mr. Haas also would like to guarantee that Old Garrison never gets paved and also that there will be penalties to be paid if you violate this ordinance.

Rick Hebbard of 97 Spruce Lane, which abuts Old Garrison Road. He stated he and his family has farmed and maintained the Old Garrison Road for over 50 years, he is going to do whatever is best on his farmland. If he needs to cut some trees to put up a fence then he will be doing that. The State of New Hampshire came down and made a complete mess of the road with logging trucks. Now it is a wide road. He feels there is not a lot of thought that has gone into this. He would like to be compensated for his 25 feet. He raises cattle there and grows blueberry bushes there also. He prunes them when he likes. He asked the council to think about this.

Seeing no one else, the Mayor closed the public hearing.

- E. Ordinance #04-03/14/2001, Chapter 166, Vehicles and Traffic, Section 166-56, Schedule I, No Parking Anytime, Abbott Street. Sponsored by Councilor Betsey Andrews Parker. **(See 10.A.3.)**

Seeing no one, the Mayor closed the public hearing.

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- F. Ordinance #-06-03/14/2001, Chapter 3, Administrative Code, Adding Section 3-69, Dover Arts Commission. Sponsored by Councilor Matt Mayberry, Betsey Andrews Parker and Tom Dunnington. **(See 10.A.4.)**

Seeing no one, the Mayor closed the public hearing.

6. CITIZEN'S FORUM

Bill Hunt of Back Road is here regarding the resolution on the train station. He encourages the council to vote for this resolution. He gave a brief history of the startup date; the governor authorized the state to start construction tomorrow.

Ray Proulx of 54 Cataract Ave. He has been waiting a long time for rail service; the council's signature tonight will be the realization of a dream that they have been waiting a long time for. We need this and he urged the council to sign the contract.

Steve Pesci of Strafford Regional Planning is here for the rail resolution and feels this is an exciting time, they have been waiting over 12 years. Dover will be one of the first communities to get rail service; it will be a high-speed service. He commended the residents of Dover for their support. He urges the council to sign this tonight and tomorrow they will be on their way.

Dennis Duffy of 163 Silver Street is here for the proposed bus loop that was recently voted down. He commended the Planning Board for voting it down. The board listened and voted it down with reason; his father owns the house directly across the street. He resents the politics in the paper. He questions the School Board and how they will construct this with or without the consent of the Planning Board. He feels the board is disregarding another board.

Erik Sweetser of 2 Wallingford Street, President of Save Dover. He urged the council to not accept Reese's minutes. He understands the City settled with Chuck Maglaras out of court. This decision overturned the Ethics Board. He went on about the bus loop at Woodman Park and how it was turned down. He commented on the Mayor Pro Tem of the future. He stated citizens need a voice that truly represents them, so he announced he would be running at large.

Mary Hebbard of 97 Spruce Lane suggests that the proposal be sent back to the Planning Board and she understands there was not a site walk of Old Garrison Road. A visual inspection should be done. She stated the traffic is due to the Portsmouth Christian Academy. The school has changed the whole neighborhood; people cannot possibly walk in the morning because of the traffic. She urged the council to study the issue before making a decision.

Seeing no one else, the Mayor closed the Citizen's Forum.

7. MINUTES

- A. Council Workshop – February 28, 2001
- B. Regular Council Meeting – March 14, 2001

Berry moved to accept, seconded by Mayberry. All in favor.

8. REPORTS OF STANDING AND SPECIAL COMMITTEES

- A. Planning Board – Councilor Jerry Reese

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Reese stated the Planning Board met last night and reported that Brooks Pharmacy on 687 Central Avenue had been approved on a 7-2 vote. Also, a discussion for Tuttle Subdivision (Little John's Creek) is still on the table.

There was a discussion on growth management and a committee will be formed with 7 to 9 members from different constituencies of the city.

The Planning Board will study the implementation of impact fees.

B. Public Works Building Committee – Councilor Peter Schmidt

Schmidt reported that construction is continuing. The pole barn is coming nicely and everything is progressing well. Hindle asked for a completion date. Schmidt feels that it will be complete sometime around September for occupancy in the fall.

C. Arena Building Committee – Councilor Matt Mayberry

Mayberry stated fund raising efforts are continuing to go forth. Next month we hope to have good news for the council.

At the end of April, the Home Show is here and this will be the open house of the new arena. Then, they will begin renovations on the Foster arena.

D. COAST Bus – Councilor Peter Schmidt

Schmidt reported the board met yesterday. COAST is in the process of a route and fare study. They have obtained a parts bus, as well as one that can be put on the road to replace the old SAABs. They expect the Portsmouth trolleys to start their summer schedule soon.

E. Solid Waste Advisory Commission – Councilor Thomas Dunnington

None.

F. Elementary Facilities Committee – Councilor Jason Hindle

Hindle stated, with regard to the recent Planning Board decision and the Woodman Park bus loop, they will be meeting soon.

G. Alternative School Joint Building Committee – Councilor Jason Hindle

They have signed a contract for \$97,000 that needs to be spent by June 30. They will be meeting next April 19. Reese forgot to mention the Woodman Park Bus loop; the neighbors will be getting a letter stating the School Board is coming back before the Planning Board and there will be a site visit on Tuesday, April 17, plus a meeting on Tuesday evening regarding this plan. Berry asked if a clarification could be made to answer the neighbors' concerns.

H. Parking and Traffic Committee – Councilor Betsey Andrews Parker

None.

I. Ball Fields Committee – Mayor Wil Boc

Berry moved to accept the reports, seconded by Dunnington. All in favor.

9. CITY MANAGER'S REPORT

The City Manager reported we are 3/4 through the month of March on the general fund revenue. We have collected \$5.9 million or 75% of projected revenue and expenditures are at 75%. In the month of March we issued 24 building permits with a construction value of \$973,800 and city fees collected \$7,500.

Yesterday, the Planning Board and other staff members met with Federal Emergency Management Agency and will probably be reimbursed for 48 hours for one of the most recent snowstorms. He will be trying to put the City Manager's report on the city's web site or it can be retrieved from the Dover Download.

Schmidt asked about the federal funds we will be receiving and should we be thanking some official. Reese asked the City Manager about putting his report out after it is delivered to the council.

Berry moved to accept the City Manager's report, seconded by Mayberry. All in favor.

10. UNFINISHED BUSINESS:

A. ORDINANCES IN 2ND READING

1. Ordinance #02-03/14/2001, Chapter 143, Scenic Roads, Sections 143-1 through 141-4, updating RSA references. Sponsored by Councilor Jerry Reese, Planning Board Representative.

Reese moved to adopt, seconded by Mayberry. Reese stated these items have been on the table for at least two months. Stancel explained the ordinance, saying three roads have been designated Scenic Roads by the City Council; Old Rochester Road, David Tuttle Lane, and Rochester Neck Road. The Planning Board received a petition signed by 35 citizens concerned about the clear cutting along Old Garrison Road and how to protect scenic roads. This is a result of a couple of issues with clear cutting the lots. He explained the Planning Board process. Mayberry asked about his concern and, by the taking of private property. Owners cannot cut their own trees. He is concerned for these people; he asks about the taxation part of it. Stancel states, zoning by its very nature tells what people can or cannot do on their property. The Planning Board says this is not different from any other proposal. His other point is a 25-foot buffer from the front of the property line.

Schmidt has been called by a number of residents to see what has been done about the stone wall that was taken down and the clear cutting that had been done. He feels there is strong support for the ordinance. He does have concerns for Mr. Hebbard and David Tuttle Lane and how we may be impacting what a person can do with their property. David Tuttle Lane is classified a class 6 right of way. So we have as much power over it as we do Central Avenue.

Nossiff has a problem with this. These people that had their property decimated and didn't know what was coming. If he had been a property owner in that area, he probably would have had no

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objection to it in the beginning. It was totally innocuous, but now it is decimated. Maybe we should have an amendment tonight where the residents of the street could have such a designation. These people went along with this without knowing what was coming. Stancel added that this designation was declared in the early 1980s. Nossiff has a problem with the warning that was given to these people. Dunnington is concerned with this kind of zoning and how the government can tell them what to do. Public zoning is for public health. He is troubled with zoning about aesthetics and he is concerned with it. How many miles of road are we talking about? Just these 30+ people? Stancel replied, it is the Council's prerogative to designate by adding or taking off the scenic road list. For example, Three Rivers Farm Road, Bruce Woodruff says this road may be three miles, tops. Mayor Boc feels zoning should be as little intrusive as possible, but he feels aesthetics are important. The Council's job is to review what the Planning Board does to see if they followed the policies and he feels they did.

Berry clarified, we have two separate ordinances; one to do with stone walls and the one he will support is 10.A.1., then he stated he has issues with the 10.A.2. Ordinance.

Motion passed on a roll call vote of 8-1. Nossiff opposed.

2. Ordinance #03-03/14/2001, Chapter 170, Zoning, Section 170-28.4, Scenic Road Overlay District. Sponsored by Councilor Jerry Reese, Planning Board Representative.

Reese moved to adopt, seconded by Mayberry. Berry asked about what was changed in the ordinance, was it just the 25 feet? Stancel stated yes, this creates a scenic road overlay district. He added this ordinance preserves what people expect when they purchase a scenic road lot. Berry asked how large the lots are and did Mr. Hebbard attend the public hearing when they were held? Mr. Hebbard stated he spoke to Ron Cole and was told there would be a site walk and there was not.

Mayberry is not in favor of this item because you are not able to remove trees in this 25-foot overlay. Stancel pointed out that the current ordinance prohibits cutting trees. This just further restricts it. Schmidt clarifies an incident of clear cutting on a scenic road and that as a result of their action, they paid \$100 violation fine. This is a natural setting with trees and stone walls; diseased trees should be able to be removed. He understands Mr. Hebbard's reservations and maybe we should take his road off the scenic designation.

Dunnington feels the stone wall ordinance is a different issue, but here we are saying the government has decided what is pretty here in the city, he resents this. This is a very small, select area and he will vote against this. The Mayor feels the government should not step in and tell people what to do with their own land, but the people bought this land thinking it would be preserved forever. Andrews Parker asked if the Conservation Committee had made any recommendation on this. Stancel said, no. She would like to ask the Conservation Committee about this, as it seems can we separate the three streets. Reese says the Planning Board has spent almost a year on this, so vote it up or down. Berry now has a concern with Mr. Hebbard's property and that area. Berry moved to bring it back for a 3rd reading and get the Conservation Commission's opinion, seconded by Schmidt and Andrews Parker.

Nossiff would support that, he also urged the citizens to bring forth their petitions for decertifying these streets. He asked Stancel if there is a provision that permits decertifying on the petition of a resident. Stancel assumes the council can act upon a petition. Schmidt feels if it were only

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Old Garrison Road, then he would be in favor of it. Motion passed on a vote of 7-2. Reese and Mayor Boc opposed to referring to a 3rd reading.

3. Ordinance #04-03/14/2001, Chapter 166, Vehicles and Traffic, Section 166-56, Schedule I, No Parking Anytime, Abbott Street. Sponsored by Councilor Betsey Andrews Parker.

Andrews Parker moved to adopt, seconded by Mayberry. Hindle stated he will abstain. Motion passed on a roll call vote of 8-0. Hindle abstained.

4. Ordinance #-06-03/14/2001, Chapter 3, Administrative Code, Adding Section 3-69, Dover Arts Commission. Sponsored by Councilor Matt Mayberry, Betsey Andrews Parker and Tom Dunnington.

Mayberry moved to adopt, seconded by Andrews Parker and Dunnington. Motion passed on a roll call vote of 9-0.

B. ORDINANCES IN 3RD READING

C. RESOLUTIONS

1. Resolution RE: Amendment to City Charter Section C3-3 Entitled "Selection of Mayor and Mayor Pro Tem". Sponsored by Councilor Jason Hindle.

Hindle moved to adopt, seconded by Nossiff. Hindle explained the resolution. He would simply like the people to be able to decide on this proposal. Berry asked about his concern if the Mayor dies. He feels if this should occur, we should have a special election. If this could be revised, he would support it with this language added. Mayberry is concerned about the Mayor Pro Tem. He understands that this person should work well with the council; he feels this should be the council's Mayor.

Hindle responds, currently we elect the Mayor Pro Tem in a closed-door session. This was an issue for some people. He will agree with Berry on his proposed amendment. Hindle said, currently the city spends \$5 or \$6 thousand on a city election. Nossiff interrupted, he wants to get on with the vote. Berry responds, the meeting where we select the Mayor Pro Tem is a public meeting and everyone is welcome to attend. Hindle says he only wants to bring it to the voters. Dunnington agrees with Hindle on this, as we are a democracy. If people go to the polls, they vote for whom they want to run the city. He feels the current way is inappropriate. Reese states, having been an at large candidate he would not want the job of Mayor Pro Tem.

Hindle states, in that case then, the other at large candidate could be elected. Andrews Parker talked to other people in the surrounding areas and she does not feel it needs to be changed. Schmidt feels this is a bad idea, as we are tinkering with the charter too much. This is a republic; not a democracy and we are elected to make these decisions. He would not want someone who has no experience at all to be elected Mayor Pro Tem. Also, that a person's experience on the council represents an asset.

Mayor Boc will not vote for this as we should have a choice, this is the way Jerry Ford became president and this is not right. He agrees with Reese and we should not force people to be Mayor Pro Tem. We should not force someone to be Mayor or Mayor Pro Tem if they do not want to be. Berry does not feel any back door deals were cut when he was elected, but he would

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support it if Hindle wants to make a couple of amendments to this resolution. Berry only wanted to be Mayor Pro Tem to build council consensus. Hindle will be back with different amendments and he feels that Schmidt's comments were a real slap in the face.

Hindle moved to table the resolution, seconded by Nossiff. All in favor.

2. Resolution RE: Resolution RE: Acceptance of the Action Plan Expenditures for The Fiscal Year 2001 Entitlement Funds and Modifications of the FY2000 Action Plan Expenditures of the Community Development Block Grant Program. Sponsored by Mayor Wil Boc, by Request.

Berry moved to adopt, seconded by Reese.

Stancel explained the resolution. Hindle asked to abstain from the vote and also regarding the sexual assault services, because they also receive funds from the general fund. Nossiff asked about security deposits, why don't we get that money back? Stancel says, again this is run through the city welfare office. Why didn't we fund HUB? Stancel says they were cut because they asked for over \$1.5 million and the Planning Board had priorities. Third, what is the Triangle Club? Stancel says it is a private non-profit agency dealing with drug addiction and alcohol abuse. Mayberry thanked him for his work on this item.

Motion passed on a roll call vote of 7-0. Andrews Parker and Hindle abstained.

11. NEW BUSINESS:

Berry moved to suspend the rules to introduce 11.A.6. and 11.A.7., seconded by Mayberry and Andrews Parker. Motion passed on a roll call vote of 9-0.

A. CONSENT CALENDAR

1. Parade Permit – Options for Women – Pregnancy Help Center & Clinic
2. Parade Permit – Dover Track Boosters
3. Parade Permit – Cocheco Valley Humane Society
4. Parade Permit – Portsmouth Christian High School
5. Parade Permit – Daniel Webster – Boy Scouts of America
6. Raffle Permit – Greek Orthodox Church
7. Raffle Permit – Greek Orthodox Church

Andrews Parker wonders why they have to approve parade and raffle permits.

Berry moved to grant, seconded by Mayberry. Motion passed on a vote of 9-0.

B. RESOLUTIONS:

1. Resolution RE: Closing a Portion of Central Avenue for the 58th Annual New Hampshire Soap Box Derby. Sponsored by Mayor Wil Boc, by Request.

Berry moved to adopt, seconded by Mayberry and Reese. Berry abstained. Motion passed on a vote of 8-0.

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2. Resolution RE: Authorizing the City Manager to Enter Into Agreements with Amtrak, Northern New England Passenger Rail Authority, and Guilford Rail System for the Dover Passenger Rail Station Facility. Sponsored by Mayor Wil Boc, by Request.

Berry moved to adopt, seconded by Mayberry. Nossiff asked about the lease agreement. He does not see the City of Dover being the lessee, plus the rent section is left blank. He also thought there were problems with Guilford Rail Service. He stated, we have no control about the frequency of stops here. Has the issue with Guilford been resolved? Bruce Woodruff states that at some point Mike Walls from the Attorney General's Office has stepped in and the City Manager may not have to sign any lease as the state has indicated they will sign instead of the individual communities, so they will be taking on the burden of liability.

The cost is around \$1,500 per year for forty years. We are going to pay this all at once. This will be 20% city funds and 80% federal funds. Nossiff asks if this will become so attractive. Woodruff speaks for the State, that they would not have gone forward with this if there were problems or unless this issue was taken care of.

Nossiff asks what kind of lease do we have on the parking lot of Cocheco Mills that is in that area. Woodruff states it is 20 years. Also, is there a guarantee to have at least four (4) round trips per day? Steve Pesci did state that this is the commitment at least by Maine as they are paying a lot of the bills. They have been given every indication that there will be 4 round trips per day. Mayberry asked about the rail safety video on channel 22. Who covers the gap from the railroad station to the train and handicap access? Who will be responsible for this? Woodruff attended a meeting at Old Orchard Beach regarding the aluminum bridge that will be connected to the platform and the train. The Mayor will support this, even though he opposed the train station initially. Motion passed on a roll call vote of 9-0.

3. Resolution RE: Award of Bid # B01030 for a Street Sweeper. Sponsored by Mayor Wil Boc, by Request.

Berry moved to adopt, seconded by Reese. Reese confirmed we will be getting a second sweeper. Motion passed on a roll call vote of 8-0. Dunnington out of the room.

4. Resolution RE: Creation of Ad Hoc Committee to Review the Entire Code of Ethics. Sponsored by Councilor Matt Mayberry. **(not available at printing time)**

Mayberry withdrew the resolution.

5. Resolution RE: Award of Purchase Order for a Zamboni Ice Resurfacing Machine. Sponsored by Mayor Wil Boc, by request.

Berry moved to adopt, seconded by Mayberry and Schmidt. Motion passed on a roll call vote of 7-2. Reese and Hindle opposed.

6. Resolution RE: Award of RFP #B01018 for Public Works Municipal Software: Work orders and Inventory Management. Sponsored by Mayor Wil Boc, by request.

Berry moved to adopt, seconded by Reese. Reese asked if last year's software did not take care of this. Dean Peschel explained that this is a facilities management program. Berry also has a concern about asset evaluations. Mayor Boc asked about the range in bids; this is the first time

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he has such a big spread - \$27,000 to over \$100,000. This is small city versus large city. Motion passed on a roll call vote of 9-0.

7. Resolution RE: Award of Change Order for New Arena Additional Work and Existing Arena Renovations. Sponsored by Mayor Wil Boc, by request.

Berry moved to adopt, seconded by Mayberry. Nossiff stated he has a problem with the amount, thinking it was a \$100,000 less than this. Gary Bannon clarified about the infrastructure. Motion passed on a roll call vote of 7-2. Hindle and Reese opposed.

8. Resolution RE: Authorizing The City Manager to Initiate Condemnation Proceedings. Sponsored by Mayor Wil Boc, by request.

Berry moved to adopt, seconded by Reese. The City Manager explained the resolution, stating we are not able to come to an agreement with the individual. The City Manager confirmed the attorney for the individual is Al Souther, so Nossiff, Mayor Boc and Dunnington will abstain. Motion passed on a roll call vote of 6-0. Nossiff, Boc, and Dunnington abstained.

C. ORDINANCES IN THEIR 1ST READING:

1. Ordinance # 09-04/11/2001. Chapter 166, Vehicles and Traffic, 166-48, Schedule A: One Way Roadways. Spruce Lane. Sponsored by Councilor Betsey Andrews Parker, Chair, Parking and Traffic Committee.

Berry moved to refer to a Public Hearing on May 9, 2001, seconded by Hindle. All in favor.

2. Ordinance # 10-04-11/2001. Chapter 3, Article IV, Boards and Commissions and Section 3-52 A, Establishment and Section 3-70, Transportation Advisory Commission. Sponsored by Councilor Betsey Andrews Parker.

Berry moved to refer to a Public Hearing on May 9, 2001, seconded by Andrews Parker. All in favor.

D. COUNCIL CORRESPONDENCE:

1. Wetlands Application – Citadel Broadcasting Company
2. Wetlands Application – Acorn Associates, X1X, Ltd.

Berry moved to accept and place on file, seconded by Mayberry. All in favor.

12. COUNCIL MATTERS OF INTEREST

Hindle commends Reese for his vote on Brooks Pharmacy. Reese has a question for Dunnington, are we going to have a solid waste pick up day? Dunnington stated the date has not been set yet.

Berry reminds everyone about the budget hearing schedule as the schools are waiting to know if they will have money or not. He urged council to study the papers given to them in advance. The City Manager says we will do special funds and revenue funds on the night of April 26 for an

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hour. Then we can discuss the budget. Dunnington thanked the council for supporting the arts commission. He also announced the NH Shakespeare professional performance coming to Dover on a Sunday.

13. ADJOURNMENT

Reese moved to adjourn at 9:30 p.m., seconded by Schmidt. All in favor.

JUDY GAQUETTE - CITY CLERK