

**MINUTES
REGULAR COUNCIL MEETING
NOVEMBER 8, 2000
DOVER CITY COUNCIL
COUNCIL CHAMBERS
7:00 P.M.**

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

Schmidt led the pledge of allegiance.

3. ROLL CALL

Councilor Schmidt, Andrews Parker, Mayor Pro-Tem Berry, Mayor Boc, Councilor Hindle, Mayberry, Nossiff, and Reese present. Councilor Dunnington was absent.

4. MAYOR'S REPORT

He's been busy with several functions. First, he attended a dinner in Portsmouth for Jim Kageleiry for 50 years service to NY Life where he presented the keys to the City. The next day he went to a 75th dinner party at the Kiwanis Club. On October 15th, he did the swing on the swings and slide on the slide event recognizing the beautiful new playground at Woodman Park School. This new equipment also enhances the neighborhood. On October 18th, he attended a ribbon cutting along with the Chamber at Sierra Design on Nelson Street. Then on October 20th he did a ribbon cutting at American Web Advantage on Grandview Drive. On October 25th, along with a group of people, he attended a meeting to plan the festivities for our home town hero, honoring Jenny Thompson over Thanksgiving weekend. She will attend the Christmas parade and an old time pep rally at DHS honoring her as the most decorated woman athlete in the modern Olympics. He attended a Tri City gathering to talk about the common interests of the three cities. On October 26th he went to Mrs. Weigold's 3rd grade class to explain about the electoral process in New Hampshire. He also did a ribbon cutting at Pete's Place in honor of Pete Gabarro who lost his life to cancer. This is an organization sponsored by Wentworth Douglass Hospital for families of children w/cancer. On November 6th, he spoke to Brownie Troop 121 explaining the great advantages of elections in our country. He thanked the City Clerk's Office for their handling of the election. He also commended all the volunteers for helping out on Election Day. He reminded everyone about Veterans Day on November 11th. He then read a proclamation for Veterans Day week. He mentioned the City Council met last month and gave the City Manager his annual evaluation. He stated the City Manager had received very high marks, and an excellent rating. Mayberry moved, seconded by Schmidt, to accept. All were in favor.

5. PUBLIC HEARING - None

6. CITIZEN'S FORUM

Brenda Whitmore of 141 Henry Law Avenue spoke about repealing the Paul Street rezoning. She explained the priceless ness of the piece of property in question. She disagrees with the

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assessed value of the land, it has been underdeveloped for 375 years, and this issue is about the fair and due process of elected officials. She went on to summarize the events leading to their appearance tonight starting, with the Planning Board's decision to pass the rezoning. On Nov 8th she concluded with Mayberry drafting tonight's resolution. She stated the vote taken was inappropriate and she begged the council to vote to return this ordinance to the Planning Board.

Mayberry stated that during Citizens Forum, the people from Dover Brook have been invited to speak, as their workshop from two months ago on this issue was cancelled, so they will be speaking here tonight.

Patti Frew-Waters, 6 Paul St, stated she is trying not to be redundant as she spoke about Jack Story's editorial in this evening's paper and started presenting facts, from the ethics violation. She went on to read the findings of the ethics board on the Charles Maglaras violation. She asked the Council to reflect upon this information and asked them to be leaders, as they are the ones their children look up to.

Gil Allen of 7 Wallingford Street is a proud member of Paul Street neighborhood association. He mentioned the stress of the situation; he feels they do have some common ground in addressing the process. We all must live with the results, but we also have to keep a respect for this system. The group feels as though they are the major underdogs here in the City, as most groups are against them and they are vulnerable. They feel a blatant violation of the standards of the Ethics Board has been committed. The Ethics Board backed them up, and he urged the council to take the Ethics Board report seriously. This should not be decided on possibly an improper vote. Let's clear the air and send it back to the planning board.

Ted Ackman of 3 Niles Street states as he sees it, the plan is to rezone the Paul Street area but the ethics violation is about the Planning Board and their ethical conduct. The vote tonight is about their ethical responsibilities. If they want to be seen as sensible to the citizens of Dover, the area needs to be reconsidered and rezoned. The property in question belongs to all of us, the people of the City of Dover. He urged the council to avoid the slippery slope of corruption of politics.

Lou Mroz, 51 Toftree Lane stated based on what he has read, there are definitely some legal improprieties. He hopes the council will revisit this issue, he's been a resident since 1978, and he is concerned about the uncontrolled growth here in Dover. He urged the Council to save the quality of life we now have.

Ted Hedberg, 43 Mast Road Extension, attended UNH several years ago, and has lived here ever since. He thanked the council for all the countless hours they put in, as there are a lot of people who do not realize the time they spend. He talked about the engineering study done on the old middle school and went on to point out several projects that have begun here in the city. He feels they have not been engineered correctly, and probably will not go forward correctly. He questions the real ability of the council as well as the ability of the employees of Dover. He feels the ethics violation should be put back on the table. He concluded by thanking the council.

Kathy Derby, 141 Henry Law Avenue, reminded the council when they were elected, they took a pledge to uphold the law, and lots of people are watching from home tonight to see the outcome of this issue. She stated they may agree or not agree with the Paul Street people, it does not

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matter; but there is a system of checks and balances, whether they agree or not, the Ethics Board did decide that there was a violation. She urged them to please vote with their conscience.

Chuck McAdams, 20 Constitution Way, expressed his gratitude for allowing the Dover Brook residents to speak to the council tonight. He discussed the package that was presented to the council tonight. (See meeting folder of 11/08/2000).

Ken Hanson, a Dover Brook resident, lives at 17 Constitution Way. He added further details on the fairness of the sewer abatement requests. He feels there were extenuating circumstances and a compromise should be the answer. They do not want to antagonize anyone here on the Council. He feels they have been treated unfairly in this situation. He mentioned comments brought up at the August 8th council meeting and how they were desperately trying to save their newly planted lawns. They want the abatement tied to a standard so each person would get only what is due them. He quoted from the folder on file. He mentioned all the expensive projects in the City. He went on to state their total request for all 14 claimants is only \$4500.

Joseph Gagnon, of Dover Brook, 18 Constitution Way, stated they are not allowed to have any children live at Dover Brook. There is also no snow plowing required by the City, all they are looking for is fairness on the high sewer bill after the hottest summer on record in 104 years. They have no complaints on the water portion of these bills, just the sewer portion. They were aware of the memo meters but they are not feasible for use in their manufactured home neighborhood. He asked the council to vote for a one time only rebate.

John Scruton, 99 Sixth Street, spoke about all the building here in Dover and how we are running out of land, he would like just a piece of land left. He mentioned Henry Law Park and how we have a chance to have a common right here in the city. He would like to see a questionnaire to the residents put in the next water bill for their opinion on the area. This is a key area, as this is a navigable river that goes to the ocean.

Dennis Duffy, of 163 Silver Street threw in his support for the Paul Street residents; he would like a more open dialogue at Citizens Forum with the Council.

Scott Myers of 103 Dover Point Road and the Economic Development Corporation reviewed the City's position of the 15-year process in the Paul Street neighborhood. He stated this parcel is truly a separate parcel from the riverfront. Originally, over 200 units were proposed for this site. DEDC reviewed this recommendation but did not agree with this proposal. He gave the City's history for this parcel. They feel the recommendation is in the best interest of the City. He also does not feel the process was rushed. Traffic studies were also done. He reminded everyone that Planning Board members and DEDC members are all volunteers. Condos as opposed to homes would limit the number of children that would live there. They did not want to impact the schools any more. On the Ethics situation, the council will have to vote their own conscience. He went on, DEDC does support the upgrade of Henry Law Avenue. He urged the council to move that up in the CIP. He added, he just wanted to clear up some misstatements tonight.

Jack Story, President of Greater Dover Chamber of Commerce made a correction with regard to the article on him in tonight's Fosters. He corrected the number of proposed condos.

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Erik Sweetser of 2 Wallingford St does not see why there has to be a connection between the bluffs and the area below. The traffic study that was done was inaccurate. He mentioned that dragging Chuck Maglaras's name through the mud was not their intent. The vote tonight is about the public's trust. He quoted from an old letter the Mayor had written a year or so ago to the Ethics Board, that city government is supposed to mirror the wishes of the residents he serves. He asked, what gives the City the right to develop this land for a few lucky condo owners. For Dover to become a great city, they should take the time to study the area properly.

Art Guadano has a business at 634 Central Avenue, and he feels it is difficult to come out and speak, as he is in support of what is happening and feels this is a good step for the development of the City. He stated the public has not been ignored on this issue. He mentioned all the issues that will impact the area, including the tax impact of single-family homes in Dover. He feels these condos will not have a big impact on the schools and will add a good tax base, to the city. He feels we need more good ecological development in the downtown area, and doing a project incrementally is good for the city as well as doing it in small steps makes it more easily acceptable.

Jackie Taylor of Samuel Hanson Avenue mentioned she had stood up at the Planning Board on the night they had taken the vote and stated there was a conflict of interest. She knows the Maglaras family, so it has nothing against them. The council should have stopped this process when they received the violation. She urged them to study this project a whole lot further and to also fix the street first.

Edward Kola, 5 Berkshire Lane is not affiliated with the Paul Street residents, but he does request the Council refer the matter back to the Planning Board.

Jeff Gauthier of 162 Henry Law Avenue stated he feels condos are not special. He just feels the council is digging themselves into a hole they cannot get out of.

Tom McDonough of 92 Henry Law Avenue along with his "bride" does not believe the council has acted in the best interests of the city. He wonders how many councilors have walked up on the knoll in question. It is now a dump; it used to be a pristine area. He hopes the taxpayers are not paying for that new train station because they have previously had the old train station torn down.

Arthur Corte, 81 Glenhill Road is concerned about if the development of the waterfront will reach its full potential and he's convinced we can make urban planning history. He is in support of sending this to the Planning Board but not for the reasons we have heard so far. He feels the bluff has to be tied to the waterfront development. The other thing is we do not have a vision for the citizenry. Some years ago we had a charrette, and they did a lovely job of planning, we need to build on that.

Dave Carpenter, 55 New Rochester Road feels they are not acting in the best interest of the citizens of Dover with regard to the citizens of Paul Street.

Jim O'Neil on behalf of the Paul Street organization was not going to speak tonight; but the newspapers have built this project up for the City, and he feels this is just for the business

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interest of the City; we should leave this land alone and send the item back to the Planning Board for reconsideration.

Laura Bastianelli, of 74 Spruce Lane is here to support the Paul Street residents. She travels down Henry Law Avenue and it's very congested. This will not be an asset for the neighborhood. She urged them to send it back to the Planning Board.

Bill Caldwell of 29 Tanglewood Drive is here for a lot of reasons; he supports the Paul Street people. The decision by the Council to do nothing and ignore the Ethics Board decision of the 5-1 vote disturbs him greatly. He feels this is a power play, he urged them to send this item back to the Planning Board.

Patricia Taylor of 10 Wallingford Street wants this item sent back to the Planning Board for another vote.

Wayne Taylor of 10 Wallingford Street and a member of the Paul Street Association believe they are not acting in the best interest of the citizens.

Jackie Taylor, (for the second time) stated keep it green, leave the trees. We need them.

Joe Reeves from Who's on First stated this month he had asked again for a dance permit of the Chief of Police, he does not know what he has to do. He was shut down. He went to court ex-pârté, by George Wattendorf. He is a new owner of the bar, and he's very upset. He's gone to Schmidt and the City Manager, but with no avail, as well as the Chief. He wrote a note to the Chief, he has a nice business going, and he wants to keep it going. He has dart teams and pool tables, he misses the Shifters and Ron Jones. He's sorry about the past years, but he now brings 250 people into town from the State of NH to help this town. He does not feel he has any civil rights here. He feels he is being harassed. He needs help on this dance permit issue, as he wants to keep his business going. He presented a letter to the clerk for the record. (See Council folder 11/08/2000).

Gary Gilmore of 39 Middle Road stated his only thought is that city councilors are judged by their actions and, to forsake this area for the sake of a condo if they have a better vision for Dover, then they need to reflect on it. If the right choice was easy, they would always do that but it never is. He does not feel condos are going to be something we will be proud of in 25 years for the little money we will get for the one time gain. They need to weigh the costs. He urged them to consider this and do what they will by their conscience.

Joe Reeves (for the second time) stated New Year's Eve is coming up and he wants to know if he can make arrangements for a dance that evening.

Linda Brennan of 49 Oak St, W-2, stated she came the night the zoning amendment was adopted and was appalled that it had an ethics violation associated with it. She wants the ordinance sent back to the Planning Board.

Jeff Hollinger, of 346 Back Rd feels it should be sent back to Planning Board for reconsideration.

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Phyllis Woods, of Barry Street is a State Representative and she appreciates but does not envy the council in making this decision. She reiterated that they should follow their conscience as Gary Gilmore had stated. She would like to eliminate the appearance of any impropriety or any cloud about the process they are engaged in. She urged them to take this back one step to clear up the issue.

Mayberry moved to suspend the rules to move item 11B-1 forward seconded by Hindle. Motion passed on a Roll Call vote of 8-0.

11B-1 Resolution RE: Vote to Rescind the Zoning Amendment Vote of August 9, 2000, Ordinance #10-05/10/2000. Sponsored by Councilor Matt Mayberry.

Mayberry moved seconded by Hindle to adopt. Mayberry reminded everyone we all have to live together here in the City and each of the City Councilors are trying to do the best job for the City. He asked them to turn down the rhetoric. He mentioned that he took personal offense to one of the speakers. All personal attacks aside, we have to live with each other afterwards. The council and their families should not be threatened. He urged the people to tone it down a bit. He feels it was a clean vote, and this resolution is about the ethics violation. He then urged his fellow councilors to send it back to the Planning Board. Hindle stated he agrees with Mayberry on this particular resolution. This resolution is about ethics. He has received email from both sides of the issue and most people feel it is an ethics issue. The Mayor echoed their sentiments. The reason we are here tonight is to vote to send the resolution back to the Planning Board. He went on, the original vote on Planning Board was overwhelming. Even if we took Chuck Maglaras's vote off, it would have not have any effect on the vote, it would not change anything. He will not vote for the resolution. Mayberry asked the Mayor how many votes are needed to pass this. The Mayor stated it would take a majority vote. Andrews Parker stated she has participated in each meeting that it has been voted on, and she made her decision based on what she feels. She explained her previous votes; her vote tonight is about if it is the right process to send it back to the Planning Board. And she will not vote for it. Schmidt commented on what the Ethics Board had said, about how a single person's influence on the entire decision could not be weighed. The taint of the process constituted a fatal flaw in the process. He's not a lawyer, but he feels it should go back to the Planning Board, and if they vote the same way then so be it. He feels the Ethics Board people have expertise that he does not have. He will vote for the resolution. Motion failed on a roll call vote of 3-4, Berry, Boc, Andrews Parker and Reese opposed. Nossiff abstained.

7. MINUTES

- A. August 14, 2000 Special Meeting/Workshop *(See 10/11/00 agenda)*
- B. August 24, 2000 Special Meeting/Workshop *(See 10/11/00 agenda)*
- C. September 13, 2000 Regular Council Meeting *(See 10/11/00 agenda)*
- D. October 26, 2000 Workshop

Berry moved, seconded by Andrews Parker. Schmidt has corrections for the Workshop minutes of Oct. 26th. The Mayor states we need the corrections beforehand. We are voting to approve items 7a,b, and c. Item d will be moved to the next regular meeting. All in favor.

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8. REPORTS OF STANDING AND SPECIAL COMMITTEES

A. Planning Board – Councilor Jerry Reese

No report.

B. Public Works Building Committee – Councilor Peter Schmidt

Schmidt stated the site leveling has been finished and the Public Works Facility is now under construction, the footings and foundation will go in next week and the pole barn will be arriving next week also. Electric power will be delivered to the site shortly. He stated we are in good shape.

C. Arena Building Committee – Councilor Matt Mayberry

Mayberry reminded everyone they have a memo from St. Thomas Aquinas stating they are contributing \$75,000. Also we did conduct a bid process for the Arena. It has been kept within budget and there are no cost overruns

Mayberry turned this report over to Pete Lavoie with regard to the \$75,000 pledge from St. Thomas; he mentioned that a proper bid process was done. Lavoie stated steel is up on the arena and sheathing will be going on the roof and all the other parts and pieces have been ordered.

D. Coast Bus – Councilor Peter Schmidt

Schmidt stated the COAST Executive committee had met yesterday and they are looking at community funds for transit related projects. This is a way of leveraging federal dollars. We will be able to make application for small grants of up to \$20,000 or a larger project up to \$275,000.

The used buses the system purchased recently have all been painted and we should see them shortly. He also has a surprise in conjunction with the Thanksgiving Day Holiday parade here in Dover that he cannot divulge.

E. Solid Waste Advisory Commission – Councilor Thomas Dunnington

No report.

F. Parking and Traffic Committee – Councilor Betsey Andrews Parker

No report.

G. Elementary Committee – Councilor Jason Hindle

Hindle stated this is his first report for this committee since it was formed in September to study the space needs at the three aging elementary structures. He would like all councilors to join him this Saturday for a tour to view the elementary schools and to let the school board know by tomorrow if they are coming. Berry followed up on how crowded the elementary schools are and what poor condition they are in currently. The next meeting will be next Wednesday at 7pm at Woodman Park School and is open to all. Berry moved seconded by Mayberry to accept reports, all in favor.

A five-minute recess was taken here.

9. CITY MANAGER'S REPORT

The City Manager stated with regard to the budget thru the end of October, 2.4 million has been collected or 35%; and we are 33 percent thru the year. Regarding the use of the fund balance, we plan to issue 7.1 million in Tax Anticipation Notes and this will cost us a few pennies in interest. The Mayor stated this is double what we have always had. Nossiff wants the City Manager to let him know how they are doing in terms of the projections, and do we have some predictions. The City Manager stated we are right on target. Mayberry asked what did Mr. Beecher just say, in order for us to get thru until we get our tax money, we will have to borrow about 7.1 million to pay our bills until tax money comes in because we do not have enough money on hand. Mayberry complimented the Clerks office and all the ward workers for their hard work at the polls. The City Manager mentioned the problems we had with the voting machines and to be aware that we may be putting a request in the upcoming budget next year for new machines. Nossiff requested a separate written memo on why we need a tax anticipation note. Berry moved, seconded Mayberry. All were in favor.

10. UNFINISHED BUSINESS:

A. ORDINANCES IN 2ND READING

B. ORDINANCES IN 3RD READING

1. Ordinance # 15-09/13/2000, Chapter 9, Budget, Section 9-1, Submission Date. Sponsored by Mayor Pro Tem Robert A. Berry.

Berry moved for adoption, seconded by Hindle. Berry explained the purpose of the ordinance and moved to amend by changing the dates in the ordinance from April 1 to April 15 and March 1 to March 15. Mr. LaSalva, Superintendent of Schools spoke up, saying the 15th is a date we could live with. This new date will help when they are trying to hire teachers for the upcoming year. All were in favor of the amendment. Main motion passed on a roll call vote of 8-0.

C. RESOLUTIONS

11. NEW BUSINESS:

A. CONSENT CALENDAR

B. RESOLUTIONS

1. Resolution RE: Vote to Rescind the Zoning Amendment Vote of August 9, 2000, Ordinance #10-05/10/2000. Sponsored by Councilor Matt Mayberry.

This item moved up on agenda to follow Citizen's Forum.

2. Resolution RE: Appropriation for FY02 Capital Improvements Program and Authorization for Bonding. Sponsored by Mayor Wil Boc, by Request.

Berry moved, seconded by Mayberry, to refer to a public hearing on November 29th. All in favor.

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3. Resolution RE: Award of Change Purchase Order for Professional Consulting Services – Cocheco River Dredge Project Permit Application. Sponsored by Mayor Wil Boc, by Request.

Berry moved, seconded by Mayberry, to adopt. Passed on a Roll Call vote of 8-0.

4. Resolution RE: Award of Bid #B01014 for Sewer Pipe Cleaning and TV Inspection Services. Sponsored by Mayor Wil Boc, by Request.

Berry moved, seconded by Hindle and Mayberry, to adopt. Reese asked if the City owns any of this type of equipment. Lavoie stated we do not have what goes into the sewer line, such as the camera equipment, and we do not have the equipment for the visual process. The City Manager says it would not benefit us to purchase the other equipment either. Mayberry asked what area of the city is it for. Lavoie says it will be used all over the city. Passed on a roll call vote of 8-0.

5. Resolution RE: Award of Change Purchase Order for Professional Consulting Services – Monitoring TV/Cleaning Sewer Lines. Sponsored by Mayor Wil Boc, by Request.

Berry moved seconded by Mayberry. Passed on a roll call vote of 8-0.

6. Resolution RE: Award of Purchase Order for Contaminated Soil Removal and Disposition. Sponsored by Mayor Wil Boc, By request.

Berry moved seconded by Hindle, passed on a roll call vote of 8-0.

7. Resolution RE: Award of Purchase Order for Continued Professional Architectural Services – Old Middle School Reuse. Sponsored by Mayor William E. Boc, by Request.

Berry moved, seconded by Mayberry, to adopt. Nossiff wants to defer action on this. He does not want to keep spending money on Mr. Lassel until he appears in person and lets us know the background of his firm, Lassel Architects, as well as his level of experience. Reese wants this not to exceed \$25,000. Andrews Parker agrees with Nossiff, and asks what are we proposing to put in the facility now. What will the costs be from the proposed CIP? The City Manager explains they had had a Workshop early this spring and at that time no decision had been made by the court, so our use was dedicated to the rear of the building, the alternative school, our welfare operation and some open rooms. DALC is going to use it; that was our original concept. Once the court made the decision not to go in, we now have 30,000 square feet to reuse. We may well run into the same problem as the court did, such as the large costs. Until we go thru the process, we won't have an answer to the cost use, as well as who will go into it. Andrews Parker wonders if there are any parameters on the costs. She does not want to vote until the Planning Board comes back to us on funds. She wants to wait until she is sure of what we are really doing. The City Manager stated in the end he will not recommend all the things in the CIP final analysis. He says we could sell off the front half; but because of the space needs in the city, we owe it to ourselves to look at it first. The City Manager wants to go thru the process, as we will not know until we do. Berry feels this is a logical step in the process, as this will tell us what we can fit into this building. Nossiff still does not want to rush into this, He wants to put this off until Lassel Architects present his experience to us. The City Manager withdraws the resolution until the December meeting. The Mayor is very convinced that Mr. Lassel is very capable of doing the job. Resolution withdrawn.

8. Resolution RE: Award of Purchase Order for Annual Software Maintenance Services. Sponsored by Mayor Wil Boc by Request.

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Berry moved, seconded by Mayberry. Passed on a roll call vote of 8-0.

9. Resolution RE: Acceptance of Digby Lane as a City Street. Sponsored by Mayor Wil Boc, by Request.

Berry moved, seconded by Hindle, to refer to public hearing on Dec. 13th. All in favor.

10. Resolution RE: Pre-approval of Qualified Contractor Selection for Park and Ride Facility Construction. Sponsored by Mayor Wil Boc by Request.

Berry moved, seconded by Mayberry, to adopt. Passed on roll call vote of 8-0.

C. ORDINANCES IN THEIR 1ST READING

1. Ordinance #16-11/08/2000, Chapter 166, Vehicles and Traffic, Section 166-50, Schedule C, add Stop Sign, Tuttle Lane. Sponsored by Councilor Elizabeth Andrews Parker.

Berry moved, seconded by Mayberry, to refer to a public hearing on December 13th. All in favor.

D. COUNCIL CORRESPONDENCE

12. COUNCIL MATTERS OF INTEREST

Berry commented on the Florida polls. Hindle stated the big complaint at his Ward 5 polling place was that the polls were not open earlier. The workers in Ward 5 want to move the opening time to 7am, especially for the presidential elections. He then thanked the citizens for voting in favor and passing his Charter proposal on the staggered terms question. Mayberry mentioned a petition that was presented and signed by 62 residents of Spur Road regarding the speed limit issue. Reese echoed everyone's sentiments on the polls and he also thanked the Community Services Department for bringing additional voting booths to his polling place about mid-morning on Election Day to hasten the process and alleviate the lines. He went on to add, the new drapes in the Chambers look wonderful. He also asked where are we with the Dover Brook water issue. Mayberry stated he wanted to bring this item up as a resolution to grant \$250. per petitioners' request, for a total of about \$3500. to the 14 people in Dover Brook. The Mayor agreed. Motion to grant \$250. to each of the 14 people, seconded by Hindle, passed on roll call vote of 5-3. Andrews Parker, Berry and Nossiff opposed.

13. ADJOURNMENT

Motion to adjourn was unanimous at 10 PM.

JUDY GAQUETTE
CITY CLERK