

**MINUTES
REGULAR COUNCIL MEETING
NOVEMBER 10, 1999
DOVER CITY COUNCIL
COUNCIL CHAMBERS
7:00 PM**

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

Councilor Schmidt led the pledge.

3. ROLL CALL

Members Present: Councilor Schmidt, Councilor Johnson, Councilor Landry, Mayor Pro Tem Perry, Councilor Rawding, Councilor Reese, Councilor Berry, Mayor Wil Boc.

4. PUBLIC HEARING

A. Resolution RE: The Disposition of Revenues from the Land Use Change Tax. Sponsored by Mayor Wil Boc, by Request. **(See 10C-1)**

The Mayor opened the Public Hearing on this resolution.

Tom Fargo – Chairman of the Conservation Commission. Mr. Fargo urged the City Council to vote in affirmation on the resolution tonight. He stated they want money designated to the Conservation fund to be used to protect land for the City of Dover.

Doug Dede – Past Chairman and Vice Chairman of the Conservation Commission. Mr. Dede spoke in favor of the resolution. He stated this is a forward-looking request instead of in the past forward looking – for future use. Mr. Dede stated the developer at Barbados was pressured to give up two lots. He stated there is no mechanism in place to purchase conservation land.

Mr. Dede stated Barbados went for \$310,000. The \$50,000 in the new resolution is unrealistic. He stated the city should be looking at an unlimited amount of money. He urged the council to vote for the unlimited amount.

Heather Hughes – member of the Conservation Commission. Ms. Hughes stated she liked the forward thinking plan. She stated this is the reason she signed on to the Conservation Commission. Ms. Hughes stated she wanted it passed without a cap.

Linda Scherf – member of the Conservation Commission. Ms. Scherf stated she looks forward to following the example of 84 other towns in the state that have

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instituted a land use tax. She likes the desire to protect and preserve. Ms. Scherf stated, as citizens, we want Dover to prosper. Open space accounts for 25% in this state.

Ms. Scherf stated residential development consistently costs more than conservation – revenue can not replace resources. She urged the City Council to vote in favor.

Erv Sparkman – 232 Tolend Road. Mr. Sparkman supports this resolution. The taxpayers of Dover have to pick up the burden of what is not paid for land that is in current use. The money should go in the general fund and be used to support whatever issue is before the council at that time. Mr. Sparkman supports funding for the project, but wants it to compete for funding as all other issues do.

Seeing no other speakers, the Mayor closed the Public Hearing on this resolution.

B. Ordinance # 15-09/13/1999. Chapter 22, Ethics, Code of, Section 22-18. Sponsored by Mayor Wil Boc, by Request. **(See 10A-1)**

The Mayor opened the Public Hearing on this ordinance.

Rosemary Zurawel – Chair of the Ethics Committee. Ms. Zurawel stated this ordinance is very important to us. This will protect both parties.

Seeing no other speakers, the Mayor closed the Public Hearing on this ordinance.

5. CITIZEN'S FORUM

Elaine Case – a resident of Dover. Ms. Case spoke regarding Sun 'N Fun and reminds the City Council we need a camp building. She stated she was told it's in the CIP. Ms. Case distributed a letter to the City Council. She stated the camp is vital to the citizens of Dover.

Karen Mairs – Old Dover Point Road. Ms. Mairs spoke regarding Camp Sun 'N Fun stating it is a good camp.

Ms. Mairs also spoke regarding the smoking ordinance. She asked that the ordinance be rescinded.

David Watters – 19 Maple Street. Mr. Watters spoke regarding the smoking ordinance. He reminds us people are still being killed by second hand smoke and he feels there is overwhelming support of the people of Dover for this ordinance. Mr. Watters stated he feels there should be some opportunities in the next few months.

Rick Laughton – one of the owners of Daniel's Bar in Dover. Mr. Laughton stated he doesn't argue the fact of second hand smoke, but he has an economic problem. He stated there are major problems with the ordinance. Mr. Laughton stated some of the ordinance is discriminatory in nature. He stated the section of employee rights – it

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seems the Board of Health is very concerned about his comprehensive health. Mr. Laughton mentioned several clubs and fraternal organizations in town and he feels it's extremely discriminating. He stated in order for us to sell liquor, we must sell food – there are no bars in the City of Dover or the State of New Hampshire, for that matter.

Mr. Laughton offers his time to draft a new proposal. He stated he took a survey himself in his business several times over the last seven years. Mr. Laughton stated they are going towards no smoking by themselves. He stated let us all work together to solve this problem.

Joe Reeves – owner of Who's on First. Mr. Reeves stated he would like the ordinance rescinded.

Erv Sparkman – 232 Tolend Road. Mr. Sparkman stated he has a lot of issues in the packet tonight. He commended the City Council for drafting and passing the smoking ordinance in Dover. Mr. Sparkman stated he has heard enough to be convinced that it is necessary. He stated if we need six months to resolve the conflicts, then fine – but, don't yield to political ads and rescind the ordinance. Mr. Sparkman encouraged the City to do everything they can to support this.

Mr. Sparkman suggested low interest loans to help repair restaurants to comply.

Mr. Sparkman wanted to address the CIP.

- 1) Why is it being presented now?
- 2) He wants discussion of line items before it comes to the council at the next meeting.

Art Pelletier – 94 Back River Road and a State Representative. Mr. Pelletier urged the City Council not to rescind this resolution. The City Council has a window of time to fix it. He invited citizens and restaurant owners to come lobby in Concord on the assorted bills.

Mr. Pelletier spoke regarding money, stating many national chain restaurants are going smoke free as a result of threats of lawsuits from their customers.

Lyn Brownell – Director of Government Affairs for the American Lung Association of New Hampshire stated not one person in this room has not been detrimentally affected by smoking (lung cancer, throat cancer, emphysema, chronic obstructive pulmonary disease (COPD), strokes or heart attacks. She wanted to remind the council of the petitions that were signed and received at the last meeting.

Claire Blaisdell – Mt. Vernon Street. She has been a resident for 4 years. Ms. Blaisdell changed the subject regarding the change of use resolution tonight. She urged the City Council to vote favorably on the proposal.

Joe Reeves stated he is for seeing the smoking ordinance rescinded; he left his card with the City Clerk.

The Mayor closed the Citizen's Forum.

6. MINUTES

- A. Regular Council Meeting – September 8, 1999
- B. Council Workshop – September 29, 1999
- C. Special Council Meeting – October 20, 1999

Perry moved to accept, seconded by Berry. Berry asked about the 10/20 minutes. Perry moved to refer all minutes to the next regular meeting, seconded by Berry as Councilor Schmidt has some corrections. All in favor.

7. MAYOR'S REPORT

The Mayor stated he attended a formal tour of the new middle school building. He stated the citizens of Dover can be proud of this building. The Mayor stated the formal opening will be held 12/11 with a limited number of people invited. On 10/28 he attended a DoverNet meeting. This has brought Dover to the cutting edge. He thanked Ken Latchaw and Mike Joyal.

With the passing of Councilor Bill Wilson, the Mayor declared a vacancy for Ward 3 tonight. His recommendation is for Matt Mayberry to be seated at the 12/8 meeting.

He read a Make A Difference proclamation. There are two students here tonight to accept the proclamation – Shane Boulanger and Cheney Davis. The Mayor proclaimed 11/14 through 11/20 National Acknowledgement Week.

He read Hire a Veteran Week Proclamation. 11/7 through 11/13 is hire a veteran week.

Perry moved to accept, seconded by Schmidt. All in favor.

Perry moved to suspend the rules to consider 11.B.5. - Resolution RE: Suspension of Ordinance #11-99, Chapter 99, Eating and Drinking Establishments for a Period of 180 Days. Sponsored by Councilor Peter B. Schmidt., seconded by Berry. Motion passed on a roll call vote of 8-0.

Perry states this resolution must be done by ordinance and the next one is #17-11/10/1999, and referred it to a Public Hearing on 12/8/99, seconded by Johnson.

The City Council cannot amend the ordinance by resolution; they must use a law. This will suspend the ordinance 180 days from the date of passage.

Johnson stated regarding the Public Hearing on 12/8 he was planning to place an ordinance on tonight's agenda for rescinding; he will put a motion to rescind on the December meeting.

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Berry thanked Johnson for waiting to take this action as he is trying to make this ordinance work.

Schmidt stated the purpose of the ordinance was not to impact progress.

This was not their intention to not have sale of cigarettes. They are working to change this.

Now we need to fix the language in the ordinance for any unintended implications.

The Mayor echoes Berry and Schmidt. He stated the real issue is a health one. The Mayor stated he regrets they did not do this first.

Landry stated it takes a 2/3 vote to suspend the rules and a 2/3 vote to rescind, but the votes are not here. He stated we never had a workshop on this. Landry stated he would vote the same way again tonight. He feels it's unfortunate we can't rescind this tonight and start over. He does feel this could be corrected tonight, then we could move on.

Rawding stated the process was all wrong. He stated to continue a piece of flawed legislation is a waste of time and a waste of money. Rawding feels this is unfinished business and wants it to be completed when he leaves office. He stated he won't be part of a fix. Rawding stated he has a great deal of sympathy for second hand smoke. It is not right to impose our views on people trying to make a living in this community. He feels uncomfortable in the way the whole process happened.

Motion to refer to a Public Hearing on 12/8/99 passed on a roll call vote of 8-0.

8. REPORTS OF STANDING AND SPECIAL COMMITTEES

A. Solid Waste Commission – Councilor David Landry

Landry stated they last met on 10/14 and reviewed and accepted the minutes. The Solid Waste Advisory was brought terms and costs of the waste management contract. He stated 11/18 is the next meeting.

The Mayor stated he was at the brush pile at 2 p.m and it was crowded; he would like it open until 5 p.m. on Saturday.

Landry stated he would bring this request to Community Services.

B. Planning Board – Councilor Jerry Reese

Reese stated the Board met on 11/9 and approved minutes.

They tabled a discussion and possible vote on alternative Design Subdivision for Katz Development Corp. on Middle and Hawthorn Road.

Approved a conditional use permit for Scott Trafton at Wentworth Terrace.

Approved a site plan for Fibredyne, Inc. on Crosby Road.

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They had a discussion of the City's CIP and a discussion of ADS Subdivision Regulations.

Reese stated the Planning Board would vote on the CIP in two weeks.

C. Joint Building Committee – Councilor W. Scott Rawding

Rawding defers to Johnson. Johnson stated they had two meetings. On 10/5 and fairly recently. He stated virtually everything has been completed at this point. Two hundred people are invited to the formal opening on 12/11.

Johnson stated fifth graders would be there next year. The project is on schedule and slightly under budget.

11/16 is the next meeting.

\$100,000 of under budget money is dedicated to Dover High School ball fields.

D. Environmental Concerns Committee – Councilor Paul Johnson

Johnson stated this committee met two times. On 10/12 and on 11/9 – both meetings dealt with issues of water supply (capacity, quality, and wellhead protection).

We have a fairly significant capacity for the future. The concern is that there are changes in state regulations. Johnson stated issues on radon and arsenic will be coming soon and may require changes in the way we treat water.

E. COAST BUS – Councilor Peter Schmidt

Schmidt stated COAST would develop a permanent facility instead of a temporary one. He stated they have a place in mind. Schmidt stated the COAST Executive Committee is up for reelection. He stated he is on the nominating committee.

Perry asked about abandoning the black buses.

Schmidt stated they are being phased out. He stated COAST has disassociated itself from UNH; they have their own system.

F. Parking and Traffic Committee – Councilor David Landry

Landry stated they last met on 10/26. He stated there is a parking and safety issue at Green Street and Washington Street intersection. He stated he would be making recommendations to the City Manager in the next two days. Landry stated there have been three crosswalk requests.

He stated the next meeting will be 11/23.

Schmidt has questions about the report regarding the crosswalks on Chestnut and Central Avenue. There is a perception if you are in a crosswalk, you are safe – this is not so.

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G. Public Works Building Committee – Councilor Peter Schmidt

Schmidt stated they have had a comprehensive plan. There was a walk through last Friday. He stated 1 contractor has withdrawn. Schmidt stated in the next two weeks they would have a proposal.

Johnson added there are environmental concerns. He stated the Bioremediation at Tolend Road has been verbally approved. Johnson stated it would save \$10 million.

Landry asked if the Environmental Commission had taken Mr. Peltonen's legal bill into consideration.

Johnson stated, yes, it is forthcoming. There is a resolution on the agenda tonight.

Landry stated he would address it at the time the resolution is presented.

Perry moved to accept, seconded by Reese. All in favor.

9. CITY MANAGER'S REPORT

The City Manager stated, relative to the budget; year to date, we have collected \$2.4 million of non-property tax revenue and spent \$4.9 million.

Under Economic Development, the city issued 45 building permits in October, totaling \$2.6 million, including 10 single-family dwellings and collected \$15,000 in fees.

The City Manager asked the City Council to pass the ethics ordinance tonight.

He stated relative to the tax rate; \$28.56 is the final rate that passed.

On 11/16 supplemental bills will go out for \$8.04, which represents the school portion.

The City Manager stated he has had a number of people inquiring on the reuse of the current Dover Middle School once the students vacate to the new Middle School. He stated, over the years he has brought to the attention of the city council the space needs of the city offices in and out of City Hall. We plan to expand our current operations. The alternative school will move in February and the Superintendent's Office next year.

The City Manager stated Dover Adult Learning Center is pending a hearing from the state and won't be determined until next year. The state will go out to bid in early winter to turn it into the court. He stated the state is short on money. The building will be vacated in December and we will have to pick up the bill for utilities. We need to find tenants to help pay for this. The City Manager stated they would be looking for potential uses for this.

Rawding asked regarding the confusion on the tax bills. What does this mean in real dollars? 60¢ less than last year's tax rate or less than the tax bill received last year? The 11/16 bill will be for this billing period.

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Reese asked the City Manager when it will be due. The City Manager stated it would be due on 12/16. Dover is at 84%, not 100% evaluation.

Berry stated Maura Carroll of NHMA pulled together the educational side of the house to resolve this. Berry stated he wants this tax bill sent to the Governor.

Perry stated the bill coming out (statewide property tax share) comes out twice a year.

Landry stated the budget passed in June. He stated we thought it was going to be a \$1.79 decrease, but it's a \$.60 decrease.

The City Manager stated it has to do with school revenue and outside school contracts.

Landry stated this is a rather sizable difference.

Schmidt is now explaining the state's intention.

Perry moved to accept these reports, seconded by Landry. All in favor.

10. UNFINISHED BUSINESS:

A. ORDINANCES IN 2ND READING

1. Ordinance # 15-09/13/1999. Chapter 22, Ethics, Code of, Section 22-18. Sponsored by Mayor Wil Boc, by Request.

Perry moved to adopt, seconded by Reese. Landry moved to amend, seconded by Berry. Motion passed on a vote of 7-1. Motion passed as amended on a roll call vote of 8-0.

B. ORDINANCES IN 3RD READING

None

C. RESOLUTIONS

1. Resolution RE: The Disposition of Revenues from the Land Use Change Tax. Sponsored by Mayor Wil Boc, by Request.

Perry moved to amend by substitution, seconded by Berry – no vote taken. Landry stated this is handcuffs. He stated this severely changes the intent. All of the Planning, Zoning, and Master Plan Update supports this wholeheartedly. Landry stated the substitution is inappropriate.

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Perry stated he would support this amendment. He feels we must walk before we run. Perry stated limits can be increased or taken off later.

Johnson stated the cap is much too low and wants it to grow rapidly. He stated it would still need council approval. He sees no point in limiting it now. Johnson stated he wants it used for conservation.

Berry stated he would vote for the substitution. He would like to come back in a year or two to review it. Berry stated we should limit it to \$50,000 in the first two years.

The City Manager stated since 1995 \$173,000 has been spent.

Jeff Harrington has figures from the workshop. The figures are 12¢ on the tax rate over the year. He stated if we don't limit it to \$50,000 tonight.

The Mayor feels there is too much information covered to give up tonight; a cap puts a stopgap to it. It can always be revisited.

Rawding reviewed the 1995 numbers, 5¢ - 7¢ with an amendment on the tax rate.

Landry stated people have made it clear what is important to them. He stated the city has a track record bordering on the pathetic. Landry stated now we are throwing "chump change". He stated this council has had plenty of opportunity to be conservative with the money, but we chose to fund a lot of things.

Open space saves on the tax rate; we know that this resolution is a big mistake.

Johnson feels one of the points made at the previous workshop is if we do not act to replace a piece of land, we would lose the land forever. Green space is the best buy for the city. Johnson stated the impact from the tax rate is misleading. He stated we're talking \$50,000 - \$100,000 in fees in a good year; it is a mistake to handicap in the first year the use of these fees.

Schmidt spoke of area in his ward. He concurs with Landry and will vote against the substitution..

Mayor Boc addressed Landry's comment stating, he feels no one gets to no one. He stated he still is in support of seed money from the budget.

Schmidt stated he is in support of seed money. He wants to stay with the original resolution.

Motion to adopt the amendment failed in a vote of 4 – 4. Reese, Landry, Schmidt, Johnson opposed.

Main motion to adopt the original resolution passed on a roll call vote of 8-0.

11. NEW BUSINESS:

A. CONSENT CALENDAR

1. Resolution RE: Modification of the Action Plan/Expenditures for the Fiscal Year 1999 Entitlement Funds of the Community Development Block Grant Program. Sponsored by Mayor Wil Boc, by Request.
2. Resolution RE: Modification of the Housing Rehabilitation Loan Program Guidelines, Community Development Block Grant Program. Sponsored by Mayor Pro Tem, Otis Perry.
3. Resolution RE: Closing a Portion of Central Avenue for the Annual Holiday Parade. Sponsored by Mayor Wil Boc, by Request.
4. Wetlands Application – City of Dover.

Perry moved to adopt A.1, A.2., and A.3. and file the wetlands application, seconded by Landry. Motion passed on a roll call vote of 8-0.

B. RESOLUTIONS

1. Resolution RE: Award of Blanket Purchase Order for Continued Professional Consulting Legal Assistance. Sponsored by Mayor Wil Boc, by Request.

Perry moved to adopt, seconded by Johnson.

Reese stated he would vote to approve. He explained environmental concerns.

Johnson echoes Reese.

Motion passed on a roll call vote of 7-1. Landry opposed.

2. Resolution RE: Appropriation for FY01 Capital Improvements Program and Authorization for Bonding. Sponsored by Mayor Wil Boc, by Request.

Perry moved to refer to a Public Hearing on 12/1, seconded by Schmidt. There will be a workshop on 11/17 on CIP. All in favor.

3. Resolution RE: Granting an Easement to Bell Atlantic. Sponsored by Mayor Wil Boc, by Request.

Perry moved to adopt, seconded by Reese.

Rawding asked regarding the tower in Rollinsford and will the easement be in Dover.

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Landry asked, what is it worth?

The City Manager states \$10,000.

Representatives from Bell Atlantic were there. Beverly Hanson of Bell Atlantic in Manchester. Bob Sawyer - Engineer of Somersworth.

Ms. Hanson stated they are looking for a 400 foot by 5-foot easement. It will be dug and re-covered and brought back to its natural state.

The Mayor wants to refer this. He stated we should not be negotiating in public.

Perry moved to table, seconded by Berry and Schmidt. Motion to table passed on a vote of 7-1. Johnson opposed.

4. Resolution RE: Contract for Combined City/School Telephone Services. Sponsored by Wil Boc, by Request.

Mike Joyal explained the resolution on the telephone contract - 11.B.4.

Berry asked, do Auditel consultants feel we should go with BayRing? Joyal stated, yes.

Berry asked, do we have a contract?

Joyal stated, no. He stated in good faith Auditel and BayRing have been moving ahead toward a contract.

Berry asked, would it impact rates if the School Board does not go on board?

Landry stated he feels Berry's points are extremely well taken. Will it involve any equipment changes?

Joyal stated, yes, there will be equipment changes; but it will still be less expensive than Bell Atlantic. Bell Atlantic's charge is \$27 per line – BayRing is \$23 per line.

Landry stated secondly, he does not know BayRing – is the city currently using them in some departments?

Joyal stated, yes, the library for instance.

Landry asked, for what time period are we looking at for a contract?

Joyal stated Auditel would be ironing out the language in a final contract for a period of five years. The city was in a 7-year agreement. Five-year pricing is advantageous to the city.

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Landry asked, is the rate static or will there be a per line charge?

Joyal stated, it is static.

Schmidt asked, is the DUC apt to say no to this contract?

Joyal stated we don't have to go through with this.

Rawding asked, are we cutting a mold?

Joyal stated we would be on the leading edge. They are currently serving a number of small businesses here in Dover. We will probably be quite a sizable organization for this company. He stated there are advantages – cost savings.

BayRing will expand their business in the community.

Rawding asked, do we have an escape clause?

Joyal stated Auditel would be addressing this. He stated we will transition activities in a methodical way.

Perry is concerned with the wording regarding the city and school.

Perry moved to amend the now therefore, seconded by Reese.

Berry appreciates amendment. All in favor of the amendment. Main motion as amended passed on a roll call vote of 8-0.

5. Resolution RE: Suspension of Ordinance #11-99, Chapter 99, Eating and Drinking Establishments for a Period of 180 days. Sponsored by Councilor Peter B. Schmidt.

See minutes after the Mayor's Report and before Reports of Standing and Special Committee.

6. Resolution Re: Contract for Management Information Services. Sponsored by Mayor Wil Boc, by Request.

Mike Joyal explained someone will be on site from Rocket Science to manage the system. He stated he feels there would be a significant savings.

Reese asked, how many hours per week would someone be here?

Joyal stated 20 hours onsite and 5 hours telephone support and the person will be able to dial into our computer.

Reese asked, would they bill us per dialing time?

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Joyal stated we will have that flexibility and they will allocate time – it will be billed quarterly.

Reese asked, how do we know we'll get \$20,000 worth of services per quarter?

Joyal stated \$65,000 is not going to do it, given that there are savings in the expertise we would be getting. Rocket Science has very sophisticated tools and equipment.

Reese asked, how do we measure \$20,000 worth of service?

Perry stated he is puzzled by this. His expectation was we would have someone here on call to do what is needed. Perry stated it sounds like we are going from a 1 ½ person to a ½ time person. He stated this is a much different concept than what we budgeted.

Perry asked, was any other firm interviewed or asked for a proposal?

Joyal stated we did not ask for any other quotes.

Perry asked, would their current contracts be duplicated?

10:00 p.m.

Perry moved to suspend the rules to complete the agenda, seconded by Reese. Motion passed on a vote of 8-0.

Joyal stated the real savings is they will be onsite a minimum of 20 hours. There is no commitment to a fix, they won't have free rein.

Perry asked regarding the option to renew in 2 years.

Joyal stated we could change the contract by the City Manager in 2 years.

Rawding asked, is Rocket Science still donating free Internet time? Rawding publicly thanks Rocket Science for their generosity. He stated he feels this is a win – win situation.

Berry stated he wants to change the intent and have the City Council approve the contract – amend the now therefore, to include **with council approval**.

Berry moved to amend, seconded by Rawding. Motion passed unanimously.

Landry asked about waiving the bid process. The charge is \$80,000, the appropriation is \$130,000. He asked would, the city council get to see this ever again?

Main motion with the amendment, passed on roll call vote of 7-1, Landry opposed.

7. Resolution RE: Acceptance of Mathes Hill Drive and Danielle Lane as City Streets. Sponsored by Mayor Wil Boc, by Request.

Perry moved to refer to a Public Hearing on 12/8, seconded by Schmidt. All in favor.

Schmidt wants to correct the wording.

C. ORDINANCES IN THEIR 1ST READING

D. COUNCIL CORRESPONDENCE

12. COUNCIL MATTERS OF INTEREST

Berry stated the Alumni Drive lighting is extremely dark.

Berry asked about the striping on Back River Road, when would this be complete?

Reese thanked all the volunteers on Election Day.

Schmidt stated the Florence Street people have a problem with lighting and runoff during heavy rain situations. Some residents' basements are flooding..

13. ADJOURNMENT

Reese moved to adjourn, seconded by everyone.

The meeting adjourned at 10:50

JUDY GAQUETTE
CITY CLERK