

**MINUTES  
REGULAR COUNCIL MEETING  
DECEMBER 8, 1999  
DOVER CITY COUNCIL  
COUNCIL CHAMBERS  
7:00 PM**

**6:30 PM**

**NON-PUBLIC SESSION w/School Board**

**7:00**

***SWEARING IN OF WARD 3 CITY COUNCILOR – Matt Mayberry***

**1. MOMENT OF SILENCE**

Chief Bibber led the moment of silence asking that we remember the fallen firefighters in Worcester, Massachusetts.

**2. PLEDGE OF ALLEGIANCE**

Councilor Landry led the Pledge of Allegiance.

**3. ROLL CALL**

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

**4. PUBLIC HEARING**

The Mayor opened the Public Hearing on Ordinances 4.A. and 4.B.

A. Ordinance # 17-12/08/1999, Chapter 99, Eating and Drinking Establishments.  
Sponsored by Councilor Bob Berry and Councilor Peter B. Schmidt.  
**(See Item 10A-1)**

B. Ordinance #18-12/01/99, Chapter 99, Eating and Drinking Establishments.  
Sponsored by Councilor Paul Johnson. **(See Item 10A-2)**

**Kathy Taylor** – Ms. Taylor stated she has now changed her mind and pointed out all the places that people can go and they are smoke free. Of the 47 eating establishments / restaurants, 27 are non-smoking. She stated she wants the ordinance rescinded.

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**William Foger** – Katie Lane – Mr. Foger stated he wants the ordinance rescinded. He stated there are a lot of people that still smoke in this country. Mr. Foger stated this ordinance is making criminals out of law-abiding citizens. He stated this is a free market principle and no law should restrict freedom of choice.

**Rosemary Pixley** – Dover Citizen – Ms. Pixley stated she has severe lung disabilities and can't go out to drink or eat in Dover. She stated if the council rescinds this law, you are in violation of Federal Law #101-336 enacted in 1990.

Ms. Pixley stated restaurants and bars must go smoke free to comply with federal law. She stated about 20% of the population smokes she feels she deserves access to all public places.

**Bob Callahan** – 6 Barry Street. Mr. Callahan wants the ordinance rescinded and asked Peter Schmidt if he has a private agenda.

**Daniel Dodd** – President of the Strafford County American Medical Association. Mr. Dodd encourages the council to make it a smoke free environment.

**Gerald McLaskey** – Biddeford, Maine. Mr. McLaskey was asked to speak by the owners of Biddy Mulligan's Irish Pub. He stated the Portland metro area does not represent a true sampling of the social and political philosophy throughout the state. Mr. McLaskey stated he allows people to smoke illegally in his restaurant in Biddeford and 50% - 60% of the people do smoke. He went on with statistics of Maine. He urged the council to table this until responsible legislation can be adopted.

**Bill Scott** – Professor of Business at UNH. Mr. Scott stated this is not an economic issue, but a health issue. He stated other places and business have not been hurt since passing no smoking laws. Mr. Scott recognizes the restaurant owners' fear and their loss of control. He stated he feels the law will have an adverse effect on Dover.

**Peter Allen** – Strafford Farms Restaurant. Mr. Allen owns this restaurant along with his sister. Their restaurant is a smoke-free restaurant. Mr. Allen stated he doesn't want the council running his business. He stated they met with the Board of Health on Monday and he wonders if they really had any input. Mr. Baker admitted to not having read the ordinance until 1-½ hours before the ordinance was adopted.

Mr. Allen stated this ordinance is about abolishing choice. He stated he reviewed what went on in Monday's Board of Health meeting. The city council has a choice to rescind as it's not real to think an ordinance can be created and passed before the six-month period runs out. He stated he wants it kept on a volunteer basis.

**Marc Hiller** – Mr. Hiller spoke regarding the same meeting on Monday morning. He stated he got the sense that everyone there wanted to work on a common ordinance. He stated the Board of Health's role and the ordinance's intent is to protect the health of the people of the city.

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Mr. Hiller stated the board can back track if need be with concessions. He and the board would like to be permitted to work toward a new ordinance. If the incentive is removed, there will be nothing done to work to try to resolve this issue. Mr. Hiller asked what kind of chilling effect this message would send statewide. This will be recognized as a council that put aside for the public health of the city. He stated it would be a slap in the face if this is rescinded. Mr. Hiller asked the city council to go beyond the rhetoric.

**Alex Nossiff** – 23 Cote Drive. Mr. Nossiff stated the issue is simple – rescission versus postponement. The question is simple. He stated there should be a rescission of the ordinance.

**Albert Meatty** – Hampshire Circle. Charlotte's Copper Kettle. He is owner of a smoking restaurant. Mr. Meatty stated he caters to either or. He feels this is an issue of rights and freedom! He hopes it is rescinded.

The Mayor clarified what the council is really voting on.

**Karen Meyers** – owner of the Barn Tavern. Ms. Meyers stated there would be businesses for this ordinance.

**Nathan Dickey** – 27 Court Street. Mr. Dickey stated he goes out all the time here and in Portsmouth.

**Karen Hiller** – Grady's Lane. Mrs. Hiller wished everyone a festive holiday season. She stated her thoughts reflect her own opinions and not of her husband's. Mrs. Hiller stated she hopes they don't vote to rescind. She stated 2 out of 3 citizens want smoke free restaurants. She doesn't feel the original testimony from health experts and concerned citizens have been changed. Mrs. Hiller stated we need to fix what needs to be fixed in the ordinance. She reminded us that Dr. Hiller is on the Ethics Board and a Professor of Ethics.

**Lynn Brown** – Director of the American Lung Association in New Hampshire. Ms. Brown stated repeated studies show ordinances like this do not hurt businesses. She urged the council to uphold the ordinance.

**Raymond Proulx** – 54 Cataract Avenue. Mr. Proulx asked them to rescind this ordinance. He stated he is appalled at some of the comments here tonight. He stated no board should have the right to work on laws. He doesn't like the idea that his house was exempted from this.

**Betsey Andrews-Parker** – 22 Maplewood Avenue. Mrs. Andrews-Parker stated she's heard from numerous people about this issue. She is in support of this ordinance. Her telephone calls are 3-1 in favor of the ordinance. She feels there are compromises that can be made. Mrs. Andrews-Parker urged postponement.

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**Joe Reeves** – owner of Who's on First. Mr. Reeves commented on the slap in the face comment and feels he and other bars are being picked on. He thanked whomever for a letter to join in the meeting. He wants the ordinance rescinded.

**Lee Skinner** – 25 Mathes Hill Drive. Mr. Skinner stated he has no prepared remarks. He believes when they voted the first time it was a competent vote. Mr. Skinner stated he recommends they conclude this evening.

Seeing no other speakers, the Mayor closed the Public Hearing on these ordinances.

C. Resolution RE: Acceptance of Mathes Hill Drive and Danielle Lane as City Streets. Sponsored by Mayor Wil Boc, by Request. **(See Item 10C-1)**

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

### 5. CITIZEN'S FORUM

The Mayor opened the Citizen's Forum.

**Ed Murphy** – Chair of the Recreation Advisory Board. Mr. Murphy asks the city council to vote in favor of the new ball fields tonight. He feels we are 10 years behind with these new fields. Mr. Murphy stated the Rec. Advisory Board feels the city fields best meets their needs. He stated this would not impact the tax rate as money is coming from money from the sale of sand in the gravel pit on Mast Road.

**Elaine Case**– 1 Cross Street. Ms. Case spoke about Camp Sun 'N Fun. She stated she was told by the Planning Board that there are funds in an unexpended capital account fund. Ms. Case pointed out all the people here in favor of Camp Sun 'N Fun.

**Kerri Batchelder** - Atkinson Street. Ms. Batchelder stated she is a camp counselor for Sun 'N Fun and urged the city council to build a new place. She stated this is a positive summer experience for these kids in this community.

**Mike Noelte** – Garrison Condominiums. Mr. Noelte lives in the condos with his wife and two girls. The city needs a crosswalk on Route 108. There are 62 units in Garrison Condominiums and they need a crosswalk for the children and families.

**Ron Cole** – Evans Drive. Mr. Cole stated he is addressing TV land. Have you hugged your firefighter lately – tell them thanks. This seems to be geared toward children tonight. Mr. Cole is representing the Dover Soccer Association and the 1000 adults and children in this program. He reiterated the money will not impact the tax rate. Mr. Cole stated the location of the fields has not been determined as yet. He stated we need fields immediately.

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**Mr. Walker** – Garrison Condominiums. Mr. Walker stated he is legally blind and he and his wife love to walk. He stated he wants the city council to consider a crosswalk near the condos.

**Lisa Stacey** – 75 Long Hill Road. Mrs. Stacey supports the crosswalk on Route 108. She questioned Mr. Cole's math and wants the CIP done in the spring after the next council begins.

**Neal Stacey** – 75 Long Hill Road. Mr. Stacey stated he is in favor of leaving the public works facility where it is and refurbish it.

**Ray Bardwell** – Spur Road. Mr. Bardwell urged the council to vote yes on 11.B.8.

**John Torr** – Durham Road. Mr. Torr stated he made a mistake on the traffic of 50 trucks per day. From 6:30 a.m. – 7:00 a.m. there were 28 trucks. Mr. Torr told how many trucks went by his house at other times throughout the day and it is about 100 trucks an hour. He stated they are going at a good speed. Mr. Torr stated his quality of life is not good there.

**Joe Tenuta** – 262 Long Hill Road. Mr. Tenuta serves on the Dover soccer Association Board and the Dover Recreation Advisory Board. He stated his reason for being here is he is in favor of the County Farm Road plans for ball fields. Mr. Tenuta stated the new fields will not solve the whole problem, but will put a dent in the problem. He brought the Dover Recreation fields to the forefront of Strafford County.

**Tom Hart** – Dover Resident. Mr. Hart stated he is here about Camp Sun 'N Fun. He stated the program provides structure for the children. Mr. Hart wants this seriously considered.

The Mayor closed the Citizen's Forum.

## 6. MINUTES

- A. Regular Council Meeting – September 8, 1999
- B. Council Workshop – September 29, 1999
- C. Regular Council Meeting – October 13, 1999
- D. Special Council Meeting – October 20, 1999
- E. Council Workshop – October 27, 1999
- F. Regular Meeting – November 10, 1999
- G. Council Workshop – November 17, 1999

Perry moved to accept the minutes, seconded by Berry. All in favor.

## 7. MAYOR'S REPORT

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The Mayor called Harlan Adams and recognized him as an Eagle Scout and commended him and read the proclamation.

The Mayor asked Ruth Wilson to step to the podium. The Mayor remembered Bill Wilson to everyone mentioning Bill's council accomplishments. Mrs. Wilson told how Bill had enjoyed being on the city council and how he will be missed by all of us.

The Mayor continued by stating he attended the Veteran's Day celebration on November 11.

On 11/16 he attended the Tri City Council Meeting. Dover will host the next meeting in February. The Mayor met with other mayors in the Tri-City area.

On 11/17 he attended the Volunteer Appreciation Reception. He congratulated Dana Lynch who was recognized as the Volunteer of the Year in the City of Dover by the Chamber of Commerce. He also thanked Mr. Jack Newick for putting on the dinner at no charge.

On 11/28, the Mayor marched in the Christmas Parade in Dover. On 12/2, he attended the Dover Little Green Football banquet and on 12/7 he attended the Dover Adult Learning Center.

The Mayor continued by reappointing Paul Spang and George Maglaras to the Dover Economic Development Corporation.

He appointed a new Building Committee member – Matt Mayberry.

Perry moved to accept the Mayor's Report, seconded by Reese. All in favor.

## **8. REPORTS OF STANDING AND SPECIAL COMMITTEES**

### **A. Solid Waste Advisory – Councilor David Landry**

Landry stated the Commission last met on 11/18. The next meeting will be on 12/16 at 6:00 p.m. Landry thanked the members and stated he enjoyed working with them over the last two years. Landry mentioned suspending the rules for the Waste Management contract tonight.

Gary Gilmore – member of the Commission and a State Representative addressed a group of Claremont residents. Claremont recycles only 3 1/2% of their waste. Dover recycles 50% of our waste. He stated the State is going to require communities that did not meet the 40% standard to pay an additional fee.

At the Mayor's request, he vigorously expressed the Mayor's concern of extended recycling hours later than 2:00 p.m. on Saturday.

They also discussed the document cutting waste stream in half. This is a brochure put out by EPA on Dover, NH.

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Landry stated Jesse McKone – the school representative on the commission informed him the School Board authorized all five schools to have can receptacles. The schools currently have \$1,500 in the recycling fund from aluminum cans.

Finally, Landry stated Earle Goodwin spoke to the 8<sup>th</sup> grade class of about 30 students on public service and recycling.

The next meeting will be on 12/16 at 6 p.m.

B. Planning Board – Councilor Jerry Reese

C. Joint Building Committee – Councilor W. Scott Rawding

Rawding stated the last meeting was on 11/16. He mentioned the ribbon cutting ceremony on 12/11/99. Rawding thanked the Joint Building Committee members. Rawding deferred to Johnson for the notes of the 11/16 meeting.

Johnson stated they discussed the final dedication plans and had a tour of the new school.

D. COAST BUS – Councilor Peter Schmidt

Schmidt was unable to attend the last meeting of the board, but he had received a briefing from the executive director. He stated they are still seeking a permanent facility for the COAST bus.

E. Public Works Facility Building Committee – Councilor Peter Schmidt

Schmidt reported and expressed his gratitude to Johnson and Earle Goodwin for participating in hearing the bid proposals

The committee interviewed the two contractors.

He stated the committee voted to recommend Horne Construction of Somersworth to build the new facility.

F. Parking and Traffic Committee – Councilor David Landry

Landry stated they last met on 11/23 and the next meeting will be on 12/21 at 5:30 p.m. He took a moment to thank the committee for the last two years in working with them.

Landry stated the last agenda had 4 items:

- a crosswalk at Garrison Condominiums,
- a crosswalk at Church Street across from Locust at the request of My School - a crosswalk at that location would not be safe, but he wants a flashing light at the same area,

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- they discussed Schmidt's concerns of the truck traffic on Atlantic Avenue. He pointed out the Master Plan Update is kicking off tomorrow evening (transportation section).
- request by Stephanie DeMatteo stating her safety concerns of a crosswalk on Garrison near the Portsmouth Christian Academy.

Landry stated we would soon be able to apply for 10 more of those brightly colored crosswalk signs.

### G. Appointments Committee – Councilor Robert Berry

Berry stated they last met on 11/23. Berry addressed the resolution on the agenda appointing new members to various Boards and Commissions.

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

## **9. CITY MANAGER'S REPORT**

The City Manager began his report relative to the FY budget.

Non tax revenue - \$2.8 million collected in revenues and \$6.2 million in expenditures.

On the economic development side, 53 permits were issued for \$4 million, the city collected \$21,510 in fees.

The City Manager addressed to Rawding this was for 13 single-family occupancies. He thanked the outgoing council and stated how he had enjoyed this group. He stated it has been his pleasure to work with this group.

Berry commented the monthly reports have been helpful.

Landry stated he's enjoyed Mr. Beecher also and asked for clarification on Camp Sun 'N Fun as its not in the CIP.

The City Manager says we have unexpended money in the old CIP. They will come back to the new city council with this early next year.

Perry moved to accept the report, seconded by Landry. All in favor.

## **10. UNFINISHED BUSINESS:**

### **A. ORDINANCES IN 2<sup>ND</sup> READING**

1. Ordinance # 17-12/08/1999, Chapter 99, Eating and Drinking Establishments. Sponsored by Councilor Bob Berry and Councilor Peter B. Schmidt.

Berry moved to adopt, seconded by Schmidt.

Berry thanked the Board of Health and restaurant owners for their input. He gave an update of the current ordinance. Berry wants fairness to everyone involved. He

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stated the big issue is ventilation. He will continue to work on this even if the ordinance is rescinded tonight.

Schmidt responded to the outrageous insinuation by Robert Callahan this evening. He's here on his own interest with regards to the Public Health meeting. Schmidt stated his is one of the leading cities in this country. He stated he believes this is a public health issue, However, he is mindful of the bar and restaurant owners.

Schmidt stated this impacts each and every individual that eats and drinks in this area. He stated the process has had a very fruitful result. Schmidt thinks the fact that the city council did not immediately rescind this ordinance shows they are acting on the best interest of businesses and citizens of Dover.

Schmidt stated the ordinance has, without being in effect, brought good results. He wants to clarify the ordinance to make the ordinance have an impact with current lifestyles. He wants it extended for the remainder of the 180-day period and see if we can't come up with a solution, that is the intent of the council as originally begun.

Schmidt stated, then he won't vote to support the ordinance.

Johnson intends to support this ordinance should the motion to rescind fail –so this ordinance will be in place in order to correct the current ordinance.

Rawding respectfully disagrees with Johnson, but he urged the city council to defeat the six-month thing and vote for the rescission. Rawding feels the ordinance was flawed from the start. He stated, clearly government has overstepped its bounds. Rawding stated this is wrong and this is discriminating against restaurant owners. He urged the city council to vote against the extension.

Mayberry thanked everyone. He stated the issue is not about smoking or not smoking, but the proper role of city government in private business. He stated he's going to work hard to earn everyone's trust.

The Mayor feels Schmidt is right regarding the health issue. However, the Mayor will vote for the six-month ordinance. He will vote to ban smoking in all bars and restaurants. He stated he will also vote to rescind.

The Mayor gave a Vietnam analogy on hand grenades and the 5-second blow up time after the pin is pulled.

Motion passed on a roll call vote 5-4. Landry, Rawding, Reese, and Mayberry opposed.

2. ORDINANCE #18-12/01/99, Chapter 99, Eating and Drinking Establishments. Sponsored by Councilor Paul Johnson.

Johnson moved to rescind and he explained why, seconded by Reese.

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Johnson commented on the role of the Advisory Boards – they are here to recommend only.

Rawding makes another point as he publicly thanked Mr. Marc Hiller on bringing awareness on the issue of smoking to the citizens. He stated getting people involved is good and good for the city.

Rawding thanked Marc Hiller for all the information brought to the public. He stated this has brought people out to get involved. That is good.

Landry stated his vote has not changed – bottom line for him is freedom of choice.

Landry moved the question, seconded by Reese. All in favor.

Main to motion to adopt by rescission passed on a roll call vote 6-3. Perry, Berry, and Schmidt opposed.

The Mayor declared a 5-minute recess.

9:50 p.m. The Mayor calls the meeting back to order.

**B. ORDINANCES IN 3<sup>RD</sup> READING**

**C. RESOLUTIONS**

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

Perry moved to adopt, seconded by Landry. Motion passed on a roll call vote of 9-0.

**11. NEW BUSINESS:**

**A. CONSENT CALENDAR**

1. Raffle Permit – Dover Main Street Pogram
2. Raffle Permit – Riverside Rest Home
3. Raffle Permit – St. Thomas Aquinas High School
4. Raffle Permit – Dover High School Girl's Basketball Boosters
5. Parade Permit – Dover Cooperative Ministries
6. Wetlands Application – Chad Kageleiry

Perry moved to grant and file, seconded by Landry.

Rawding asked to remove 11.A.6. Wetlands Application now becomes 11.B.11. All in favor.

Main motion passed on a vote of 9-0.

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**B. RESOLUTIONS**

1. Resolution RE: Award of Bid #B00015 for Snow Plowing and Hauling Services. Sponsored by Mayor Wil Boc, by Request.

Perry moved to adopt, seconded by Reese. Motion passed on a roll call vote of 8-0. Rawding abstained.

2. Resolution RE: Award of Bid #B00019 for a Custom Fire Pumper. Sponsored by Mayor Wil Boc, by Request.

Perry moved to adopt, seconded by Schmidt.

Berry thanked the Dover Fire Department for responding to Durham's Fire.

Motion passed on a roll call vote of 9-0.

Berry moved to suspend the rules to address 11.B.12., seconded by Mayberry. Motion passed on a roll call vote 7-2. Perry and Berry opposed.

12. Resolution RE: Reimbursement for Sludge Analysis. Sponsored by Mayor Wil Boc, by Request.

Perry moved to adopt, seconded by Reese.

Reese questioned "land apply". Landry asked Pete Lavoie, this is done so sludge can continue to be mixed with loam and sold or given away.

Rawding stated it is one of the finest fertilizers there is.

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

10:00 p.m.

The Mayor moved to suspend the rules to complete all the other resolutions, seconded by Berry. Motion failed on a roll call vote of 5-4. (Did not have 2/3 vote) Landry, Perry, Rawding, and Reese opposed.

3. Resolution RE: Adoption of Standard Operating Procedures for Snow Removal and Ice Control. Sponsored by Mayor Wil Boc, by Request.
4. Resolution RE: Installation of Crosswalk, The Garrison Condominium Complex – Durham Road (Route 108). Sponsored by Wil Boc, by Request.
5. Resolution RE: Appointments Committee Recommendations to Various City Boards and Commissions. Sponsored by Councilor Robert Berry and Councilor Jerry Reese.

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6. Resolution RE: Acceptance of Wallace Drive as a City Street. Sponsored by Mayor Wil Boc, by Request.
7. Resolution RE: Award of RFP#B00020 for Worker's Compensation Claims and Administrative Services. Sponsored by Mayor Wil Boc, by Request.
8. Resolution RE: Installation of a Private Utility in a Public Right-of-Way. Sponsored by Mayor Wil Boc, by Request.
9. Resolution RE: Collective Bargaining Agreement Between the City of Dover and the DPA Local #466. Sponsored by Mayor Wil Boc, by Request.
10. Resolution RE: Appropriation for FY01 Capital Improvements Program and Authorization for Bonding. Sponsored by Mayor Wil Boc, by Request.
11. Wetlands Application – Chad Kageleiry **(old 11.A.6.)**

**C. ORDINANCES IN THEIR 1<sup>ST</sup> READING**

**D. COUNCIL CORRESPONDENCE**

**12. COUNCIL MATTERS OF INTEREST**

**13. ADJOURNMENT**

JUDY GAQUETTE  
CITY CLERK