

## Jackson Board of Adjustment

February 2, 2011

### UNOFFICIAL UNTIL APPROVED

**Draft February 2, 2011**

**Members in Attendance:** Frank Benesh, Brian Walker, Joan Aubrey, Lisa MacAllister and Dave Urey. Alternates attending the meeting were Joan Davies, Gino Funicella and Martha Benesh. Members of the Public in attendance are: Selectmen's Board Chairman David Mason, Selectman Jerry Dougherty IV, Daren Levitt, Melanie Levitt and Larry Garland. Martha D. Tobin is the Recording Secretary.

The Chairman called the meeting to order at 7:00 p.m.

**Elect Officers** As this is the first meeting of the year the Board needs to elect this year's Chairman, Vice-Chair and Clerk. **Dave Urey, seconded by Joan Aubrey, made a motion to nominate Frank Benesh as Chairman. Gino Funicella, seconded by Joan Davies, made a motion to nominate Joan Aubrey for Vice-Chair. Frank Benesh, seconded by Gino Funicella, made a motion to nominate Martha Benesh as Clerk.** There were no other nominations and David Urey moved to have all nominations closed. The Board members were asked to vote on the slate. **The motion to nominate Frank Benesh as Chairman, Joan Aubrey as Vice-Chair and Martha Benesh as Clerk passed unanimously.**

Chairman Benesh thanked all for coming out this evening; the Board has its full complement.

### **Public Hearing Daren & Melanie Levitt (Map R12, Lot 100B)**

Chairman Benesh opened the Public Hearing at 7:04 p.m. He noted that Daren and Melanie Levitt are asking for an Appeal of Decision, an Equitable Waiver and a Variance Request. These are all intertwined. He'd like to discuss the facts with Daren and Melanie and then deal with any questions the Board may have.

Chairman Benesh asked Selectmen's Chair David Mason to give input as to what the Selectmen were thinking when they made their decision to deny the approval and send the application to the ZBA. Selectmen's Chair Mason noted when this came forward after the fire; it was recognized that the apartment was illegal. The previous owners had applied for permits but not for the apartment but they put an apartment in. Daren and Melanie bought the property fifteen years ago and the tax records were there for an apartment; the billings were there. There was a lack of oversight and real enforcement at the time the apartment went in and the Selectmen felt the Levitts should be able to have the apartment. The Levitts hadn't been devious in putting it in. The Selectmen were concerned with the septic system as the Levitts had a three bedroom approval and needed

State approval for four bedrooms. The Selectmen gave them the permit to so they could get the work done and would control the other end, assuring State septic approval, with the Certificate of Occupancy. The Levitts' attorney, Randy Cooper, feels the Selectmen can't do that once they issued a permit. The Selectmen were surprised that the State DES wouldn't accept the plan without a signoff from Jackson. The Selectmen were concerned in signing off as the plan didn't meet the present-day requirements; they met the requirements for 1980 but not for now. The Levitts did, at one time, have a four bedroom septic approval but put in a three bedroom. The Selectmen felt the best thing would be to deny the approval on the basis of not meeting Section 6 and it was beyond the Selectmen's authority to approve it. Based on calculations it looks fine for meeting the State standards but not for Jackson's. The thought was an Equitable Waiver could allow Jackson to approve the plan and then the Levitts could go to the State for approval and the Selectmen would issue the Certificate of Occupancy. That is how we got into this mess. Selectman Dougherty agreed with this information and added that Section 6 requires sixty-seven-thousand square feet of land for the plan and the Levitts have sixty-three to sixty-four-thousand square feet. In Jackson's workforce housing ordinance the bonus was higher density so using the State standards here is not that big a leap. The apartment has been there a long time and they have never had a problem.

Chairman Benesh asked what the thought process was behind approving the Building Permit and not the Septic plan; noting in theory the Selectmen couldn't approve the Building Permit if they thought it wasn't in compliance. Selectmen's Chair Mason noted the Selectmen wanted the Levitts to be able to move forward with the repairs to the building; they thought the septic approval through the State would be an easy thing and thus they were going to use the Certificate of Occupancy to make sure the septic plan had State approval. Dave Urey thought the Selectmen would have been looking at the structure as grandfathered; the apartment existed prior to the accessory apartment ordinance. Chairman Benesh noted the Board needs to discuss that; it can't be grandfathered if its illegal; the Selectmen agreed but it wasn't the Levitts' problem as they didn't put it in. Dave noted that grandfathering talks about all the things that existed at the time the ordinance goes into effect; the 2.3 ordinance didn't take effect until 2006 and the ordinance regarding accessory apartments went into effect in 2008. This structure that existed is in effect grandfather because it existed before the law. Randy Cooper has pointed out that it was there for more than ten years. Daren Levitt went to the Selectmen and asked how to make the accessory apartment legal; he feels by issuing the Building Permit to create the accessory apartment the Selectmen have made the apartment legal. It was noted that is not necessarily the case. Chairman Benesh noted the apartment was not legal in 2006 so it can't be grandfathered. Selectman Dougherty noted this was a preexisting apartment that the town can't do anything about because it has existed for more than ten years. Daren noted he was told Sections 2.3 and 4.1.2 were why this application was denied and that is why he's before this Board tonight. There's no mechanism to create an accessory apartment; the Selectmen issued a Building Permit to create an accessory apartment. Selectmen's Chair Mason has nothing further to add. Dave asked him, since Section 2.3 didn't go into the ordinance until 2006, how does the town apply it to an apartment that has existed for fifteen years. Selectmen's Chair Mason commented that the apartment was illegal in the first place and now the Levitts want to

make it legal; this has existed for more than ten years and no one has complained. Chairman Benesh noted the violation is the use not the area dimensions; Selectmen's Chair Mason disagreed. Chairman Benesh noted if the carriage house was not being inhabited as an accessory apartment then the use is the violation. Selectmen's Chair Mason pointed out if the Levitts came to the town today and wanted to put in an accessory apartment that would be an Equitable Waiver; Chairman Benesh noted that's an interesting application of an Equitable Waiver. Selectman Dougherty noted, rightly or wrongly, the Selectmen gave the Levitts approval for the apartment and can't give the septic approval. Chairman Benesh reiterated that he doesn't see how the Selectmen can issue the permit if they can't approve the septic. It was noted this is an issue that could be argued. Joan Aubrey noted the only issue is this doesn't meet the size of the lot for the septic approval. Martha Benesh noted the issue is there is a house that doesn't meet Section 9.2; it is short on land for two dwelling units with four bedrooms. It was noted the Selectmen gave the Levitts a Building Permit that approves the apartment; the Levitts aren't here to argue that; they are here to argue the septic approval. Chairman Benesh noted all the Zoning Board of Adjustment has the power to do is to make a judgment on what the zoning ordinance says. Dave thinks the Selectman made a mistake. (Selectmen's Chair Mason leaves the meeting)

Daren and Melanie were asked to explain the situation from the beginning; Daren noted the carriage house is located below the main house. It has an art studio downstairs and upstairs is production. Melanie was cleaning the space and spilled linseed oil; she put the mess in the garbage can and there was spontaneous combustion. Their application was five pages long and their builder filled it out. Daren could have not said anything about this apartment where the application called for no plumbing. There is an existing septic tank that's been there for fifteen years and has never failed to serve this use; it has a tank and a field but it was not approved by the State. When the building was built the permit said no plumbing. The Building Permit was issued to repair the damage the fire caused. When they went back to create the accessory apartment they learned they had to get State approval for a four bedroom septic plan. The Levitts did have a four bedroom septic approval from the State but decided to build a three bedroom but they knew it would support the four bedroom septic. They didn't meet the land density for a four bedroom plan so they were denied. Randy Cooper was to address the variance, appeal or Equitable Waiver. The town had all this information on file; the apartment has been there, the Levitts have been paying taxes on it; the town has known about it. The State won't look at the plan because Jackson has prior approval; Jackson's Engineer couldn't approve the plan as it didn't meet Jackson's ordinance but the septic is approved for four and a half bedrooms so it will meet the State standard but the State won't review it without the town's approval. The RSA is intrinsic to the Zoning and there is nothing in the Zoning Ordinance regarding Jackson having prior septic review. The Town Engineer is looking at this as if it is brand new construction; this is a lot which was lawful prior to adoption of the ordinance; when the building was built the whole area supported four bedrooms but when they built the house it was a non-conforming lot. Chairman Benesh pointed out that "non-conforming" applies to the apartment not the septic. Daren pointed out the lot and existing construction was originally conforming but now it is not.

The next issue is applying Section 6.2 minimum lot size for a subdivision; this is not a subdivision; it's existed; it wasn't just created. The lot was part of a subdivision in the 1970s but not this application. Chairman Benesh agreed this is not part of a subdivision and that is important. Daren noted the engineer has designed a system that will meet the four bedroom septic plan but now he has a building that he can't occupy that he's used for fifteen years.

Martha Benesh pointed out that the Levitts' next door neighbors' septic is on Levitts' property because the neighbors didn't have enough property for their septic. Daren can't see that on the map anywhere and he's concerned. Lisa MacAllister noted the unfortunate thing is there are many people, contractors who built illegally in Jackson; the Levitts are trying to do the right thing. The Levitts bought the house thinking they would have the income from the carriage house; not having it creates a hardship. Unlike many, many people in this town the Levitts are acting in good faith.

Dave would like to ask Selectman Dougherty a question. He'd like to know, since it seems the stumbling block is that the town Engineer won't stamp the plan as it doesn't meet the town's requirements, why the Selectmen couldn't just approve this just to get it sent on; why couldn't the Selectmen bypass the Engineer and get it to the State as an administrative act. Selectman Dougherty noted the Selectmen could have; Dave noted that's the substance of the Levitts' appeal. The Zoning Ordinance that Engineer Phillips is mentioning was not considered. Selectman Dougherty believes the Selectmen made an honest mistake. It was noted that Engineer Phillips would have approved the plan if the Selectmen said stamp it but Selectman Dougherty pointed out if the ZBA gives it's approval then Engineer Phillips will stamp it, too.

Chairman Benesh believes the variance application may become the most important vehicle to get where the Levitts want. The only hardship here is that they bought a house with an illegal apartment. Daren noted the hardship is that right now they can't occupy the building; it's a source of income. The Levitts have gone on with the renovation of the building and spent \$30,000 on that; but in order to use it they have to get the plan to the State. Melanie explained that they were using the money from the apartment to pay their mortgage and currently she can't use her studio. It was explained that the hardship has to be on the land not the people; there is no fair and substantial issue because of the property.

Joan Aubrey asked what needs to be done for changes to the septic system and Daren reviewed what he needs to do. Joan feels this represents a hardship on the land. The Levitts are making the septic situation better.

Daren noted that he was under the impression he got the Building Permit from the Selectmen approving the apartment so now he has a legal apartment that has been approved by the town that he can't occupy. Lisa agrees that's a problem as does Chairman Benesh.

Larry Garland asked if he could comment; he was given permission to speak as he is an abutter (they share a corner pin). Larry has been a neighbor of the Levitts since 2003 and he's been aware that there have been people living in the accessory apartment and from that perspective there has never been a concern on his part. Melanie has had workshops and that hasn't been a problem and they have been able to enjoy the use of that facility. Larry's not sure what's legal or not and the Board could spend many hours trying to decide technically this and that; compliance and non-compliance. He doesn't know that looking back is what's called for here. The Levitts have gone above and beyond to bring this all forward to make the property useable; it is not equitable to hold them accountable or responsible for oversights of the past. They should be able to enjoy it as they have for the years they've been there.

Chairman Benesh noted the situation is the Levitts have an apartment that was created in the early 1980's; at that time there was language that required one acre per dwelling unit; because they didn't have the acreage necessary for two dwelling units this was an illegal apartment at the time it was created and because it was illegal it can't be grandfathered. Dave disagrees noting they got a Building Permit for the "barn" in 1987 and the assessor in 1990 noted the plumbing. Chairman Benesh is not sure the Levitts can have a vested right in something that's illegal; there's no concept in real estate law of "innocent purchaser". The Selectmen can't rely on the prior occupancy of the apartment to make it legal and to get approval today based on current zoning which doesn't allow this; therefore, the Selectmen didn't have the authority to issue a Building Permit. The Levitts are asking the ZBA to make a statement that there's no zoning violation and there obviously is. Dave noted in the Selectmen's minutes of the meeting their decision was based on Section 2.3; this Board doesn't have an appeal of Section 9.2 before it; Chairman Benesh may be right but that's not what's before the Board tonight. The Building Permit has been issued even if it was wrong but the Levitts can't appeal something the Selectmen didn't do.

Chairman Benesh asked how the Board should proceed. The Equitable Waiver deals with setbacks; if the building didn't have an apartment there would be no violation; the issue is the use of the building as an accessory apartment. The Equitable Waiver would say that the apartment has been in use over ten years. Joan Aubrey pointed out that no one made a mistake here so an Equitable Waiver is not right; a variance is the only vehicle the Board has. The Selectmen rejected the plan on the basis of 2.3. Dave noted he was on the planning board and there are a lot of non-conforming lots; he was told that's irrelevant to this discussion but Dave disagreed noting 2.3 was one reason the Selectmen denied the application. Because 2.3 was enacted in 2006 it shouldn't be applicable to something that was built in the 1980's. No one is asking to construct a dwelling unit; the Levitts are only trying to fix something that was destroyed by a fire and in the sense of grandfathering, 2.3 is inapplicable. This is not about construction; it's restoration and 2.3 is inapplicable. To the extent the Selectmen went with section 2.3 then they erred. Section 2.3 was supposed to address new construction like up on Tin Mine Road.

Chairman Benesh noted the only way the Board can do something is with a variance. If the Board feels it can't do a variance then it is up to the Selectmen to take the next step; they approved this application once. Dave noted if three out of five members of the Board believe that the Selectmen erred; then the Board reverses on the appeal; as to 2.3; Chairman Benesh agrees 2.3 is not germane. He noted the Board is getting into deliberation and he's trying to establish criteria; the Board needs to understand how it can issue a variance.

Selectman Dougherty noted that 2.3 brought the Selectmen to 4.1.2, which brought the Selectmen to Section 6 so their decision started with 2.3. Dave noted it was a misapplication to start at 2.3 as it wasn't new construction; they are restoring what was there twenty years ago; you don't apply the same rules on Section 6.

Daren noted if this is approved the next step is the plan has to go to the Engineer; that would allow him to sign off that the plan works under the criteria. Chairman Benesh noted the Board can only speak to what the requirements are.

Martha Benesh noted the Levitts lawyer mentioned the lot was similar to another one that a family condo-ized. She asked if the Levitts have plans to sell this. Daren noted he is not trying to sell it; he's just trying to use it the way it was used.

Chairman Benesh closed the Public Hearing at 8:16 p.m.

Voting members tonight will be Chairman Benesh, Vice-Chair Aubrey, Brian, David and Lisa. During deliberations Joan Davies, Gino and Martha can speak but they have no vote.

Dave noted if there is some sentiment that we think 2.3 was misapplied then we no longer have a stepping stone to 4.1.2 and 6. Why, when a building was constructed in the '80's, would they have to meet the new rules? They can't get to the State without the approval from the Engineer. Chairman Benesh pointed out that Dave is making the point the Levitts have a vested right but Chairman Benesh doesn't believe they can have a vested right if it was illegal to begin with; it doesn't meet the 1986 standards so it was illegal when it was built. Dave can relate to that. Had they applied for a permit in 1986 it would have been denied because the lot was too small; it's an illegal apartment and they have no vested right to rebuild it. The recourse is to the person who sold them the building.

Lisa noted the Selectmen gave the Levitts a Building Permit to fix it; they've spent \$30,000 on this. The Levitts took action based on the action of the Selectmen which we think was invalid. They did this in good faith; their option is with the Selectmen and an estoppels. Lisa feels the problem is that the Levitts would have a legal apartment if the State could get the plans because the plans meet the State requirements. Chairman Benesh noted all the Board can do is determine whether the plans meet our zoning regulations or not. Gino noted the Selectmen already gave them the Permit; he feels it's easy for this Board to approve this based on giving them a variance; Dave noted they have to meet the criteria. Chairman Benesh thinks this is not a ZBA problem; it's a

Selectmen's problem and they can right it. David thinks the Board should make a finding to the extent that the Levitts appealed 2.3 and this Board has decided that isn't applicable as it applies to new construction; if we make that finding the Selectmen will come to a resolution of Section 6.

Chairman Benesh noted this goes back to determining how the Board is to proceed; he doesn't see how the Board can look at the variance arguments because he can't find a hardship here other than the monetary use of the rental area. The Levitts want to make use of an illegal apartment. This isn't a zoning issue. Joan Aubrey noted they have a septic that they are going to upgrade and that's a hardship on the land. Chairman Benesh noted a hardship has to be specific to the piece of land. There are other parcels that are being treated the same way; every single parcel up there has the same requirements. The only uniqueness to this property is the illegal apartment. The Board looked at the list for a variance; this is not contrary to the public interest because in effect they are improving the situation; they are enhancing the value of the property and enhancing the neighborhood. Regarding the observing of the spirit of the ordinance; what is the spirit of Section 6; we didn't want new construction that doesn't meet the health and density requirements. There is no affront to the spirit of the ordinance other than allowing the Levitts to put it back in the same illegal place it was. Gino suggests the Board pass on this; we had an abutter who spoke in favor of this. The Levitts can use the property as it is as a house but Gino pointed out they can't use it to the standard it was originally constructed. The applicant has to show their property is burdened more than other properties that are similar, which they can't.

Chairman Benesh reiterated this is a Selectmen's issue; he doesn't see how the ZBA can determine this. The Selectmen issued a Building Permit and then refused to approve the plan. The ZBA can't take care of this; the Board doesn't grant Equitable Waivers when there are no mistakes. The Selectmen need to be educated about what Equitable Relief is all about. Gino feels that whether this Board has the authority to make a change or not this Board should give it back to the Selectmen; Chairman Benesh agrees. The argument is against the Selectmen. Dave noted the Levitts relied on the Permit they were given under Section 9. Only a court can tell you if the town has made a mistake. Gino noted the Selectmen have the right to approve this; there's no real way to give a variance here. Martha asked if the Board can override the Selectmen or the Engineer; Selectman Dougherty has said the Engineer will sign if the Selectmen tell him to sign it. Dave's guess is the Selectmen will tell the Engineer to sign it; their reliance on 2.3 is misplaced. Chairman Benesh still feels the Levitts can't get approval to build something that was illegal to begin with. He was asked if he means if someone buys a home and has a fire they can't rebuild it; Chairman Benesh noted that's different. Gino noted there are similar situations up on Thorne Hill Road. Chairman Benesh noted if the Board takes out 2.3 then that takes out 6; 4.1.2 is Section 6. The letter from the Selectmen says they denied it for two reasons; one is the septic. Joan Aubrey noted Section 4 is a town-wide regulation; just because they are restoring a building doesn't mean they need to bring their septic up to current standards. It's not up to us to make that determination. The Selectmen granted the permit and this Board has to kick it back to them.

Chairman Benesh noted the Board can either overrule or grant the appeal on Section 2.3; but needs to uphold 4.1.2 because the apartment is in violation of 4.1.2 Dave noted this is not a subdivision. Chairman Benesh noted 4.1.2 has to do with minimum lot size. Dave noted it sets the minimum lot size for all subdivisions and this is not a subdivision; they are not expanding. Chairman Benesh would have a difficult time affirming an appeal of Section 4.1.2 minimum lot size because that applies to all lots. Dave disagrees noting it applies only to new construction. Chairman Benesh noted if the use is illegal to begin with it can't be grandfathered. Dave thinks the Board should deal with 2.3 and not with 6; Chairman Benesh doesn't see how to do that without disposing of it here. Lisa believes the Board should say we think they were wrong or give no opinion on 4.1.2 and refer it back to the Selectmen. The appeal references both sections 2.3 and 4.1.2 but Randy Cooper is saying neither of these applies. Lisa noted if the Board members believe the Selectmen misinterpreted the ordinance the issue is moot; the Selectmen approved this.

Chairman Benesh would entertain a modification of the appeal so that the Levitts are only appealing 2.3. Dave noted the Levitts can't do that tonight as they are represented by counsel.

Dave noted this is not a non-conforming use; it's a residential use; it's not a bar or a beauty parlor; it's a residential dwelling. Chairman Benesh noted it's a carriage house and studio; what makes it illegal is converting the second floor to an accessory apartment. Dave noted it's an allowed use in their area; it's zoned for cooking, eating, sleeping and using the bathroom.

Dave noted the Board has the votes to say 2.3 is inapplicable; what does the Board do with 4.1.2 and Section 6. Chairman Benesh noted the Selectmen were right to deny that on the septic but the Selectmen approved the accessory apartment and they need to fix that. The Selectmen made the decision to approve the accessory apartment and the Levitts are operating on that decision; this Board can't solve the Selectmen's problem. The Selectmen are saying they were wrong to issue the permit but they have done it already. Martha asked if the Levitts get approval through the town is it possible the State could turn them down and was told that would not happen; if the town approves the plan then the State is going to approve it. Joan Aubrey asked if the Board has any other options. It would be a grave mistake to say the Selectmen were right to deny this on Section 6. The Board doesn't have to say that. The Selectmen have already done that by issuing the Permit. The other option would be to not take any action and then the Levitts can withdraw the appeal and then the Board takes action on the variance. Dave is concerned with saying the Selectmen were wrong; Lisa noted the Board isn't going to say that. Dave wants to know what the Board is going to say; we need to dispose of this issue. Chairman Benesh is not sure the Board is going to get to a resolution tonight. He'd like the Board to reconvene in a week. Gino asked why Chairman Benesh can't meet with the Selectmen to discuss this and get a tenor of their feelings on a repair. Joan Aubrey disagrees with putting this off wondering what the Board will know in a week that the members don't know now. Dave thinks he is on the verge of a decision but Chairman Benesh doesn't see how he can say that the Selectmen were wrong to use the

Zoning Ordinance since they already issued a building permit. Dave doesn't understand why the town of Jackson is going to impose its standards on the septic system. Chairman Benesh noted it's not the septic system. The apartment was illegal; but the Selectmen granted a permit. Dave noted the Board is going to have to close its eyes to something it knows isn't right or reverse the decision of the Selectmen but this Board isn't going to approve anything.

Chairman Benesh noted the appeal of 4.1.2 minimum lot size is the ordinance by which the Selectmen denied the Certificate of Occupancy. He asked if the Board members feel they can overrule that. The Board is going to have to write a decision.

There is a question regarding the town-wide requirement for Section 6. Dave wonders if it applies only to new construction or does it apply to a burnout; it's not cut and dried that Section 6 applies; it's for new construction and subdivisions. Chairman Benesh doesn't see that distinction. Dave noted the renovating presumes that they have a right to do that; it's not a new use. Chairman Benesh was asked if he thought this needed to go to counsel; he noted this is different from what he's read about grandfathering. What Dave is suggesting is a way through this for the Board; overturn 2.3 and not address Section 6 since the Selectmen shouldn't have gotten to there. Lisa noted the Selectmen denied this but tonight the Board had two Selectmen in attendance who said they wanted to fix it. Dave noted the Board could find 2.3 was erroneously applied, because it was passed in 2006 and looks prospectively toward construction of a dwelling unit not renovation or rebuild. Here there was no construction of a dwelling unit; it was reconstruction of an existing unit. Chairman Benesh isn't even sure this is a non-conforming lot; it's a legitimate lot for building a house but it's a non-conforming use with the apartment. Dave disagrees noting this is a residential use noting perhaps the Board should adjourn for a week and talk to Rob Upton, Town Counsel.

Brian asked about providing an Equitable Waiver and Dave noted there was no miscalculation here. If this building were not being used as an apartment there would be no issue.

Chairman Benesh noted the appeal is either wrong or the Board has to vote to overturn the Selectmen on 2.3 and affirm their denial on 4.1. Dave won't do that; he thinks the Board needs to talk to Rob Upton and he wants to adjourn for another week. Other Board members felt two weeks would be better. By that time Chairman Benesh will have been able to have a conversation with Rob and the LGC too. Daren can't make the 16<sup>th</sup>; he would prefer to continue to make progress here this evening. Dave noted the Board has heard the Levitts' viewpoint so the Board doesn't need to schedule around that. The Board is not violating any RSAs by continuing the meeting. Dave would like to develop the substantial questions for discussion with counsel. He wondered if perhaps the Board can decide on the appeal but Chairman Benesh is not sure if the Board can decide half of the appeal and not the other half. The Levitts may decide to withdraw this appeal; but then they are left with a rejection. By not taking any action there is no official record, however the Board has no official decision yet either. Chairman Benesh doesn't see how the Board can reach a decision on everything that's before it tonight. He wants the

discussion continued so the Board can have the advice of Town Counsel; the Board shouldn't suggest the appeal be withdrawn; that's not this Board's decision. Dave feels there is a solution and with a little help from Rob this Board can find its way through to solve the problem.

**Joan Aubrey, seconded by Dave Urey, made a motion to continue the meeting to 7 p.m. February 16, 2011. The motion passed unanimously.** Chairman Benesh asked all members to try to be in attendance on the 16<sup>th</sup> so the same body would be making the decision.

**Joan Aubrey, seconded by Lisa McAlister, made a motion to adjourn at 9:24 p.m. The motion passed unanimously.**

Respectfully submitted by:

*Martha D. Tobin*

Recording Secretary