

REGULAR TOWN BOARD MEETING
AUGUST 14, 2007

Minutes of the Regular Town Board meeting held on the above date beginning at 7:30 p.m. in the Meeting Room of the North Elba Town Hall, 2693 Main Street, Lake Placid, New York 12946.

Members Present: Supervisor Shirley W. Seney, Councilmen: Jay Rand, Derek Doty, Chuck Damp and Barbara Whitney, Town Clerk.

Member Absent: Jack Favro

Others Present: Ed Kane, Mike Beglin, Norm Harlow, Bill Kissel, Rebecca Steffan and Jacob Resneck.

Supervisor Seney called the Regular Town Board meeting to order at 7:30 p.m. by asking everyone to stand for the Pledge of Allegiance.

Supervisor Seney asked for a motion on the minutes of the Regular Town Board meeting of July 10, a Bid Opening on July 17, a Bid Opening on July 18 and a Special Meeting held on July 20.

Councilman Doty moved and Councilman Damp seconded the motion to approve of the minutes as written and presented, with one correction, NIPA to NYPA. There being no discussion, the motion was unanimously approved by those members present.

Supervisor Seney asked for a motion on the proposed agenda.

Councilman Rand moved and Councilman Doty seconded the motion to approve of the agenda as presented. There being no discussion, the motion was unanimously approved by those members present.

Mr. Ed Kane and Mr. Mike Beglin appeared before the Town Board to discuss the actions of the Joint Board of Review on the Adirondack Museum project on Main Street. Mr. Kane stated that the Town Board should fire 4 of 5 of the members.

A discussion ensued.

Supervisor Seney thanked Mr. Kane and Mr. Beglin for coming and sharing their concerns with the Town Board. She stated that the Town Board will take these concerns under consideration, we will review them and discuss it among ourselves and see what things that we can come up with. She stated that we will take under advisement your concerns.

Supervisor Seney stated that there was supposed to be a representative from the McKenzie Pond Homeowners Association here tonight.

Mr. Kissel stated that they have retained a Attorney from Glens Falls and he has spoken with her, in some detail about the project. He stated that he went over some of the issues that he and Norm have discussed and she has them well in hand and she will get back to that group, do some more things and then they will be back to us.

Supervisor Seney asked if there is anything to add to the Tahawus Road dedication?

Mr. Kissel stated that he has to meet with Mr. Beck, who is one of the owners that's probably not in favor of what they are doing. He stated that after he and Norm meet with Mr. Beck, a representative of that group who wants dedication, is going to meet again, to see whether he is still opposed. He stated that he is the second owner in opposition and there aren't that many owners. He stated that we need to see how supportive or how much in opposition folks are before we go any further.

Supervisor Seney stated that at our last meeting we had the Time Warner Cable Franchise agreement that we needed to sign. She stated that the Board asked her to check what the 3% - 5% was. She stated that she called Syracuse, the contract that we have now expires in September. She stated that the Town of North Elba can charge up to 5% in a franchise fee. She stated that the current fee that we have been charging is 3%. She stated that they put that 3% on the bill so that each month you have a 3% franchise charge included in the bill. She stated that every 6 months they will reimburse the Town of North Elba the Franchise fee.

Supervisor Seney stated that it is her opinion that we keep the charge at 3%.

Councilman Damp asked what is 3% of the bill, what does that translate to?

Supervisor Seney stated that she would guess that it would be about \$60,000.00 per year. She stated that she would have to check that figure with Cathy.

REGULAR TOWN BOARD MEETING
AUGUST 14, 2007

Councilman Doty stated that one of our last checks from Adelphia was about \$19,000.00 every 6 months.

Councilman Damp stated that if that is the case, we are talking \$40,000.00 as opposed to \$55,000.00. He stated that the taxpayer pays this in the form of a tax or they pay it in the form of a Franchise fee. He stated that he doesn't have any feeling for changing the percentage.

Supervisor Seney stated that this agreement has to be signed by September 1st.

Councilman Damp stated that he would feel more comfortable if he knew actual numbers of what the Town receives in Franchise checks.

Supervisor Seney suggested making the motion to accept the Franchise agreement, pending getting the figures from Cathy.

Councilman Doty stated that the motion is to leave the franchise tax at 3% and authorize the Supervisor to sign said contract pending the information that we requested. Councilman Rand seconded the motion.

Councilman Damp stated that he feels that we should send them a strongly worded request that they not forego some of the local coverage that the previous entity offered. He stated that they eliminated the local channel and that was very religiously watched by a lot of people who weren't able to get to the sport event.

There being no further discussion, the motion was unanimously carried by those members present.

Supervisor Seney asked for a Delaware Engineering sewer district update. She stated that Mr. Dayan was in and wondering where we stood with the Cascade sewer district as he is waiting to get some of his work done.

Mr. Kissel stated that they are all tied in but the Trailer Park is a more pressing need because the Health Department has been bothering us to get the Cascade line on so we can get the sewer from the Trailer Park on.

Mr. Kissel stated that, following our last meeting he met with Kathy Suozzo to go over her reaction to the Village's latest comments on the draft agreement. He explained that Janet had circulated our draft to some of the Village workforce and they came back with some comments and Janet had some additional comments at that time.

Mr. Kissel asked for some direction on 3 issues that he and Kathy talked about in reaction to Janet's last comments. 1. Who's going to own the lines? He stated that it seems obvious that the Town should own the lines. He stated that the Engineer and your Lawyer are saying, the Town should own the lines.

2. Not talking maintenance costs, which would normally be passed on as part of the normal billing cycle, but, capital improvement costs as they may come along. He stated that the agreement is somewhat uncertain as to whether those would be allocated just by District or across the whole system of all the districts. He stated that Kathy's thought is that they should be district wide. He stated that you don't necessarily need to decide that right now as part of this agreement, but we should, because we need to do some Local Law implementation of our agreement and it will certainly have to be in the Local Law if it's not in the agreement.

Councilman Damp asked for an example of a capital improvement.

Mr. Kissel stated that it would be a replacement of a specific line.

Councilman Damp asked, if we own the lines as a Town, could we then be obligated to absorb the whole cost of replacing those?

Mr. Kissel he said, certainly the district and yes, the Town could be as well. He stated that that depends on how we address that issue that we're talking about right now.

3. How are the costs going to be billed? a. How do those costs get determined and b. then how do they get billed out and collected?

Mr. Kissel stated that the Town seems to be comfortable with the Village doing the paperwork and the bill collection. He stated that there have been discussions about how they set the rates and how they increase the rates. He stated that that needs to be specifically addressed in the agreement.

REGULAR TOWN BOARD MEETING
AUGUST 14, 2007

Supervisor Seney stated that Brad Hathaway came in today and stated that he needs a letter to send to the N.Y.S. Department of Health, that the Village owns all of the water and sewer lines in all of the Town of North Elba districts. She explained that the Department of Health has nothing in writing that the water and sewer lines are owned by the Village.

Mr. Harlow stated that the Village had an agreement with the Town to maintain, not own the water and sewer districts.

Councilman Doty stated that unless the lines are dedicated to the Village, that can't be true.

Mr. Kissel agreed that that is correct. He stated that he needs to spend some time in the Town Clerk's files because we can't answer the question as to whether they have been dedicated. He stated that, if they haven't been dedicated, what can we do about that, at this late date.

Mr. Harlow stated that Brad wanted to make sure that Shirley do the same letter for River Bend that she is doing for the Fawn Ridge district.

Mr. Kissel asked what commitment is being asked to be taken by the Town tonight?

Mr. Harlow stated that the commitment is, that the Town agrees that the Village will maintain the sewer for the Town.

A lengthy discussion ensued about the three items that Mr. Kissel needed answers for and trying to explain to Councilman Damp about how they will bill possible capital projects within the districts.

Supervisor Seney asked what needed to be done with Kathy Suozzo to get these districts finalized.

Mr. Kissel stated that he doesn't think she needs to do anymore, when the Town Board gives him the answers to the three questions that he had asked, he will get back with Janet and we'll fashion an agreement in final form, for review and signature by both Boards and then the Cascade District can be done, the other districts will already be done.

Mr. Kissel stated that it sounds as if the Town should own the lines. He stated that the capital costs, to the extent we had them, that were not going to be paid for by the developer, would be allocated to the users in that district, only. He stated that in terms of the billing and the rates, we have to concede that that will have to be the Village call with input from us and with periodic, at least annual review.

The Town Clerk stated that there is a benefit water and sewer assessment charge on the tax bills based on acreage, so much per acre, as per the Town, depending on what district you may live in. She stated that there is a direct and an indirect charge.

Mr. Kissel stated that he will get with Janet and we will put those three issues to bed on that basis with a few other minor ones and then we will present an agreement for final review and adoption.

Councilman Doty stated that it would be nice to have better limits on just what our input is into the rates, because saying we have input, doesn't mean squat.

Mr. Kissel stated that is thought was to craft language that said that any purposed increase would have to be presented to the Town before it was presented to the rate payers or went to Public Hearing. He stated that if the Town wished and requested there would have to be a meeting between the Town and the Village over that proposed rate increase, to give the Town a two step process.

Supervisor Seney asked for a Theianquen update.

Mr. Kissel stated that they had a meeting of their owner's association, they claim that they got most of the consents that they need for the Homeowner's Association who some of the property to convey it to us if they dedicate roads. He stated that they don't have everyone yet, so they are still working on that. He stated that they will get back to us.

Supervisor Seney asked for a Bike Path update.

Councilman Damp stated that everything is complete except we are having a very difficult time finding the deed to the property adjacent to the Fire House where

REGULAR TOWN BOARD MEETING
AUGUST 14, 2007

they park all the trucks. He stated that he had called Eileen Valentine. He stated that she recommended that someone check a couple of boxes from Norm Hess, as he was the Village Attorney at the time. He stated that Tim Holmes was going to be here today, if not, tomorrow and look for the deed. He stated, we're getting there....

Supervisor Seney asked for an update on the gas pumps for the Town/Village/School.

Mr. Kissel stated that he has this letter from Dr. Stretton of his summary of the meeting. He stated that he felt that he should draft an agreement but he had some questions under maintenance. He stated that the letter said that it was determined that the Town of North Elba, Norm Harlow, would continue to provide maintenance on the fuel depot. He asked if there was any discussion about costs of that going forward?

Mr. Harlow stated that we are going to stay with the same schedule that we have, which is \$.05 per gallon. He stated that they are also talking about doing a reserve fund.

Mr. Kissel asked if the \$.05 will cover everything, like cost of purchasing, maintenance of facility?

Mr. Harlow stated that it will cover the cost of updating, software updating, keys, hoses, lights etc. and reports that have to be generated each month.

Mr. Kissel stated that if there is no further input, he will draft, for the Town review and circulation to the School and the Village the agreement. He stated that he had mentioned that he had wanted this completed by September 6th, that is not going to happen. He asked if this has to be bid?

Mr. Harlow said yes, Northwoods Engineering is preparing the specs right now.

Mr. Kissel stated that the agreement can be signed, if you want to sign it conceptually, but until we get the numbers and know what the commitment is, you aren't going to have a real agreement, anyway.

Supervisor Seney stated that she did notify the Mayor about the renaming of the toboggan chute, that we hadn't done anything on it. She stated that she doesn't know what the Village Board has done and she doesn't know what the Town Board wants to do.

Councilman Damp stated that he thinks that it is done, they had a dedication ceremony and everything.

There was a discussion as to whether the Village Board did anything, or not.

Supervisor Seney stated that she will check with Jamie as to whether it was actually done or not.

Supervisor Seney asked for a motion to approve the Budget appropriations as per the Budget Officer's request.

Councilman Damp moved and Councilman Rand seconded the motion to approve of the Budget appropriations as presented by the Budget Officer. There being no discussion, the motion was unanimously carried by those members present.

Supervisor Seney stated that the next item on the agenda is to accept the dedication of sewer & water lines residences on the Peninsula. She stated that Bill gave her a letter that she copied to the Board members; "This letter is to advise you that it was the consensus of the North Elba Town Board, at its work session held on August 07th, that it will agree to accept dedication of sewer and water lines subject to final sign off by the Town's Engineer and a number of other standard conditions."

Supervisor Seney stated that this is where Brad asked that we include, not only the Peninsula residences but the River Bend as well.

Mr. Kissel asked that a resolution be considered confirming the consensus that you reached at the work session on the Peninsula project.

Councilman Doty moved and Councilman Damp seconded the motion that it is the consensus of the Town Board to authorize the Supervisor to sign the letter, that by resolution we agree in principle to the Peninsula project. There being no further discussion, the motion was unanimously carried by those members present.

Supervisor Seney stated that she needs a motion to write a letter with the same type

REGULAR TOWN BOARD MEETING
AUGUST 14, 2007

of wording on the River Bend project.

Mr. Kissel stated that he doesn't have a problem conceptually approving River Bend if an application is made for dedication and the proper steps are taken, etc. and dedication is offered and then we would, subject to everything that is necessary, or it would be the intention of the Town to accept dedication.

Mr. Harlow stated that Sue Kennedy knows that everything is going to rely on what we do with this agreement.

Supervisor Seney asked for a motion to allow Bill to draft a letter for the River Bend project.

Councilman Doty moved and Councilman Rand seconded the motion. There being no further discussion, the motion was carried by those members present.

Supervisor Seney reported that Jennifer Mihill has brought down a request that we allow the North Elba Town Court to submit a grant for funds to buy equipment for the Court. She stated that we are giving Jennifer permission to submit this grant.

Councilman Damp moved and Councilman Rand seconded the motion to submit a grant through the Justice Court Assistance Program. There being no discussion, the motion was unanimously carried by those members present.

Supervisor Seney stated that we received a letter from Kim Daby on the small claims assessment review. She stated that he is making a recommendation to the Town of North Elba to have its own appraisals, if the Town does not wish to have these appraisals produced, then they should authorize Attorney Kissel to settle these small claims without a hearing and a trip to Elizabethtown.

Mr. Kissel stated that the issue is rather simple, apparently we are going to have people coming to the Small Claims hearings with appraisals in hand, which we have not had except in rare exception in the past, we have dealt with it. He stated that we haven't done well dealing with it, because the Hearing Officer accepts the appraisals and with nothing from the Town. He stated that Kim is concerned that if a half dozen of those come in that way, which he thinks will now happen, that we not be down there empty handed on that many of them. He stated that he tends to agree with him, but he hasn't seen the appraisals because the filings on the small claims have simply said, we'll have an appraisal and they don't have an appraisal yet.

Mr. Kissel stated that he had a discussion with the Hearing Officer, who is going to hear the first series of these, he told him that he may have a problem in that he may not see an appraisal until the day before, and if he doesn't and the Town Board wants to authorize an appraisal, he would have to ask for an adjournment.

Mr. Kissel asked, if the Town Board would agree, subject to his discretion, where he thinks that we need an appraisal and he has time to get one, within a reasonable cost, he can get it, he will do his best. He stated that he really can't be more specific. He stated that the timeframe for these is that they just slam them down, they have scheduled four of them for next Monday and if some of them are going to be in this category, he is going to tell them that he needs an adjournment to go back and talk to the Town Board. He stated that, where he feels that we do need an appraisal and he has time to get one, it would be nice to fight fire with fire.

Mr. Kissel stated that a taxpayer can only get up to a 25% reduction in small claims court, that is why some of them do go to Supreme Court and don't go to small claims.

Councilman Doty stated that he doesn't agree with having our own appraisal. He stated that, yes, he would like to have that service available to us on a case by case basis and have the ability to assess what's going on. He stated that he feels that before we can move ahead with a appraiser, on the Town side of things, he would like to see a years worth of history of the decisions in this new context.

Mr. Kissel stated that Kim's point is, that it is becoming a one sided process, he tends to agree.

Councilman Rand stated that he would be okay with it as long as the Supervisor is kept abreast of the situations.

Mr. Kissel stated that going into this session for the next two months, he wouldn't want to have authority to get more than the most, 2 or 3 appraisals and would advise the Supervisor as that was being done.

Councilman Rand moved and Councilman Damp seconded the motion to allow Mr. Kissel to

REGULAR TOWN BOARD MEETING
AUGUST 14, 2007

have 2 to 3 appraisals done, at his discretion, as long as he keeps the Supervisor apprised of what he is doing. There being no discussion, the motion was carried by a 3 to 1 vote with one opposed, Councilman Doty and one absent.

Supervisor Seney stated that the next item is the review of the Town's financial budget obligations to the Lake Placid Village on the Code Enforcement office. She stated that Cathy said that we were supposed to be getting some sort of written commitment from the Village as to the Code Enforcement fee structure. She stated that Cathy was going to go, this afternoon and talk to the Mayor.

Councilman Doty stated, to his knowledge, nothing written has been received. He stated that things are being transferred. He stated that the only period in question, from our last meeting with Jim, is last January and February. He stated that those fees need to be transferred. He stated that, since the time of our making up this new plan, all fee structures are returning to the Town.

Supervisor Seney stated that Cathy will find out and make a report back to the Board.

Supervisor Seney stated that she needs approval of the purchase of a vehicle, for the Building Department, for the additional staff, not to exceed \$17,000.00.

Councilman Doty moved and Councilman Rand seconded the motion to approve of the expenditure of \$17,000.00 for a vehicle for the Building Department.

Discussion?

Supervisor Seney stated that the vehicle is to be driven here in the community, not to be driven home, etc.

There being no further discussion, the motion was unanimously carried by those members present.

Supervisor Seney asked for a motion to approve of the salary increase, as we discussed at the workshop, of the Planning and Zoning Coordinator to \$16.00 per hour.

Councilman Rand moved and Councilman Doty seconded the motion to approve of the salary increase. Discussion?

Councilman Damp had not been at the Workshop, so was informed that the increase is due to the added duties with Fred Warner being hired.

There being no further discussion, the motion was unanimously carried by those members present.

Supervisor Seney reported to the Board that Joe Provoncha, Essex County Clerk, is going to be here in the Town Hall on Wednesday, August 22nd from 6 to 8 p.m. to process passport applications. She stated that she has given this information to the media. She stated that it is also posted on the Bulletin Board in the Hallway.

Supervisor Seney stated that she had received a letter from Sunmount Developmental Disabilities Service office looking for an opportunity to meet with the Town Board or a committee to provide further information and assistance with regard to issues of inviting the Development Disability people into our community in a workforce environment. She stated that we have 2 homes in our community that are now working with Mountain Lakes.

Supervisor Seney asked the Town Board if they want to have these people invited to our next Board meeting and have them make a presentation?

Councilman Doty stated that he would always want to hear their presentation, but will we reach a saturation point, where the services that they want to provide for their clients is here. He stated that their presentation will cover what they hope to gain from the community.

Supervisor Seney stated that she will advise them that they can make a presentation at our next meeting which will be in Saranac Lake on September 11, 2007.

Supervisor Seney informed the Board that we do have a resignation in the Budget Office of the Account Clerk, she was approached by the Essex County Public Health Department and she has gone to work for them. She stated that we have advertised for a new Account Clerk in the Budget Office. She stated that we have to bear with not having as much accessibility to Cathy as much as we'd like, as she is going to

REGULAR TOWN BOARD MEETING
AUGUST 14, 2007

be doing both jobs.

Supervisor Seney stated that they have received 3 applications and they are setting up interviews. She stated that she and Cathy and Pam will do the interviews.

Supervisor Seney stated that our Board meeting in September will be held at the North Elba Town House in Saranac Lake on September 11th.

Supervisor Seney stated that we need to start working on our Budget for 2008, we need to set up dates for our workshops for the Preliminary Budget. She stated that it needs to be finalized by October 5th. She stated that the Department Heads have to get their budget requests in to Cathy so that she can present the Preliminary Budget.

Supervisor Seney stated that the Lake Placid Police Department have talked to each Board member about the possibility of them using our Landfill for a sensible site for a shooting range. She stated that she told Scott that we need to make sure that the neighbors are aware of this project. She asked the process for something like this.

Mr. Kissel stated that he will have to research this.

Mr. Harlow stated that he told them that he didn't want to talk about it until it was presented to the Town Board.

Councilman Rand stated, the concept has been presented.

Mr. Harlow stated that he doesn't see any problem with it.

Councilman Rand stated that he understood it to be only a couple of times a year for the qualification training.

Supervisor Seney stated that Bill Moore explained it that they want to discontinue using the range at the Fish & Game Club, that is more than twice a year. She read from the letter that the Landfill would become a perfect training ground for the Police Officers. She stated that she has no problem with it as long as we follow the proper procedures and know that the neighbors have been notified and Bill researches this, as to what we need to do, to do something like this.

Mr. Harlow stated that we do need to be concerned about the lead mitigations.

Supervisor Seney stated that Bill Moore addressed that. She stated that he told her that they had ways of taking the lead out and they would be responsible for seeing that it is removed.

Councilman Rand stated that he envisioned this as having to have a very high berm.

Mr. Harlow stated that there is a sand bank that is about 60 - 80 feet high and that's where he thought that they had envisioned to shoot against the sand bank. He explained that, as you come into the Transfer Station, it is on the left side.

Mr. Kissel stated that as a matter of courtesy, you'd probably want to have some kind of publicity, whether you have a hearing or just notify the neighbors. He stated that the state of the art for shooting ranges must be pretty advanced. He suggested that they present a design of the facility. He stated that we would probably have to do SEQRA.

Supervisor Seney stated that her response to them will be, that the Town Board directed the Town Attorney to research what's needed for the Town to approve it and you need detailed engineering, design, specs. She stated that she feels that we then should set up an Informational Meeting for concerned citizens.

Supervisor Seney gave the Essex County reports. She stated that the American Red Cross are looking for Essex County residents to merge with other counties to form and American Red Cross to work with both Towns and the County. She stated that she will keep the Town Board updated. She read that they want us to invest money, the County. She stated that they are trying to combine the two chapters, the North Country Chapter and the Adirondack/Saratoga Chapter.

Councilman Damp stated that he is not in favor of this at all.

Supervisor Seney stated that the Worker's Compensation has been sent through, last year we paid \$107,978.68 for 2006 and this year our fee is \$57,770.07. She thanked Councilman Damp for his help in this matter.

REGULAR TOWN BOARD MEETING
AUGUST 14, 2007

Supervisor Seney asked for a motion to approve the audits as per the audit numbers as follows: Abstract #7 for the month of July 2007.

Town General: The total is \$79,466.17 with the following voucher numbers: 20071301; 20071307-20071316; 20071321-20071323; 20071337-20071338; 20071348-20071349; 20071397-20071401; 20071411-20071420; 20071454-20071455; 20071457-20071490; 20071509-20071511; 20071521-20071525; 20071527-20071528; 20071531; 20071533-20071534.

Part Town: The total is \$686.53 with the following voucher numbers: 20071301; 20071324-20071328; 20071402; 20071529-20071530.

Townwide Highway Fund: The total is \$875.18 with the following voucher numbers: 20071320; 20071339-20071342; 20071500; 20071515; 20071517.

Town outside of Village Fund: The total is \$17,133.11 with the following voucher numbers: 20071318; 20071343; 20071501-20071502; 20071526.

Fire Protection District #2: The total is \$17,162.91 with the following voucher number: 20071374.

Park District: The total is \$363,804.93 with the following voucher number: 20071301; 20071319; 20071329-20071336; 20071344-20071347; 20071350-20071373; 20071403-20071410; 20071421-20071428; 20071454; 20071456; 20071490-20071498; 20071512-20071514; 20071516; 20071532.

Capital Projects - Adk. Loj Road: The total is \$3,269.76 with the following voucher number: 20071317.

Private Purpose Trust: The total is \$815.82 with the following voucher number: 20071499.

Total Claims: \$483,214.41

Councilman Doty moved and Councilman Damp seconded the motion to approve and pay the audits as presented. There being no discussion, the motion was unanimously carried by those members present.

Councilman Damp stated that it is his understanding, after talking to Jim, that we didn't want to pursue the \$50,000.00 from lacrosse.

Mr. Harlow stated that that was his suggestion.

Councilman Rand stated that it is because they will think that they own the fields.

Mr. Harlow stated, that in terms of the agreement, we are actually getting nothing to help.

Councilman Damp stated that we have to answer them one way or the other.

Mr. Harlow stated that we felt that it would be better for the Board to take the whole thing on and not be restricted by what this letter was doing us for 10 years.

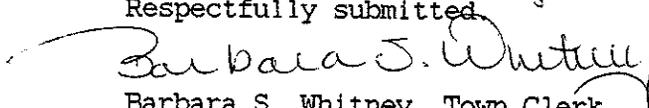
Councilman Damp asked, for this type of group, will there be some type of user fee?

Mr. Harlow answered, yes. He stated that they are tying our hands right up front.

Councilman Damp stated he doesn't have a problem with it as long as we are going to charge, there is a way to offset the costs. He stated that he would propose that anything that is left, for-profit would pay at one level and the not-for-profits pay at another level.

There being no further business to be brought before the Town Board, Councilman Doty moved and Councilman Rand seconded the motion to adjourn at 9:32 p.m. There being no discussion, the motion was unanimously carried by those members present.

Respectfully submitted,


Barbara S. Whitney, Town Clerk