

- APPROVED -
BRUNSWICK TOWN COUNCIL
MINUTES
April 23, 2007*
***Postponed from April 17, 2007 due to storm**
7:00 P.M.
Municipal Meeting Facility

7:00 P.M. Chair King called the meeting to order and asked for the Pledge of Allegiance.

Councilors Present: Chair Joanne T. King, W. David Watson, Jacqueline A. Sartoris, Hallie Daughtry, Jeffrey A. Schneider, Gerald E. Favreau, Ryan E. Ewing, Newell A. Augur, and David C. Webb

Councilors Absent: None

Town Staff Present: Donald Gerrish, Town Manager; Fran Smith, Town Clerk; Clark Labbe, Fire Chief; Steve Levesque, Executive Director of the LRA; Jeffrey Hutchinson, Code Enforcement Officer; Jeff Emerson, Deputy Fire Chief; Rick Desjardins, Police Commander; Vanessa Levesque, Natural Resources Planner; Tom Farrell, Director of Parks and Recreation; Steve Balboni, Deputy Director of Parks and Recreation; and the TV video crew

Public Comment: None

Correspondence: None

Adjustments to Agenda: None

Manager's Report:

a) Council Budget Workshops and Public Hearings

Manager Gerrish presented the schedule of meetings for the budget process.

(A copy of the Council Budget Review Schedule will be attached to the official minutes.)

b) Confirmation of Assistant Town Manager/Personnel Director

Manager Gerrish said that Gary Brown's resume has been distributed. He is looking for a confirmation from the Council.

Councilor Sartoris moved, Councilor Daughtry seconded, to confirm Gary Brown as the Assistant Town Manager/Personnel Director. The motion carried with nine (9) yeas.

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c) OUI Grant

Rick Desjardins, Police Commander, said the Police Department is requesting permission to apply for a \$4,950 enforcement grant through the Bureau of Highway Safety to combat drivers who drive while under the influence of alcohol.

Councilor Watson moved, Councilor Daughtry seconded, to allow the Police Department to apply for the OUI Grant in the amount of \$4,950. The motion carried with nine (9) yeas.

(A copy of a memo from Commander Desjardins will be attached to the official minutes.)

d) Firefighter Grant Program

Clark Labbe, Fire Chief, said this is a Homeland Security grant for educational materials. This will allow the Fire Department to apply for a \$98,000 grant from the Firefighters Grant Program. There is a 10% town match, and, if successful, funds can be used for an engineered vehicle exhaust system and a sprinkler system for the Central Station. They have also received a grant in the amount of \$3,100.

(A copy of Chief Labbe's memo will be attached to the official minutes.)

Councilor Watson moved, Councilor Daughtry seconded, to accept the grant for \$3,100. The motion carried with nine (9) yeas.

Councilor Watson moved, Councilor Favreau seconded, to allow the Fire Department to apply for a Firefighter Grant Program in the amount of \$98,000. The motion carried with nine (9) yeas.

e) Council Committee Updates

Councilor Webb said the Economic Development Feasibility Committee had their first meeting. They discussed a schedule and a process for hiring consultants. They have been working on the RFQ and will be asking for \$25,000 to fund this. He gave future meeting dates. The former Times Record Building will have its grand opening as a composites school on June 20, 2007. Maine Street Station Committee's next meeting will be looking at parking issues, among other items.

Councilor Daughtry said the Elementary School Building Committee will hold a meeting on Thursday, April 26, 2007, and a public hearing on April 30, 2007, on the Educational Specifications Report, which is on the School Department's web page.

f) BLRA Appointment

Manager Gerrish said this item is to appoint a Topsham member to the BLRA. Topsham has recommended Sue Spann be appointed.

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Councilor Ewing has worked with her and heartily supports the appointment.

Councilor Ewing moved, Councilor Favreau seconded, to appoint Susan Spann as the Topsham representative to the BLRA. The motion carried with nine (9) yeas.

(A copy of a memo from the Topsham Town Manager will be attached to the official minutes.)

54. The Town Council will hear public comments on the following Special Amusement license application, and will take any appropriate action.

Special Amusement:

Brunswick Golf Club, Inc.

D/B/A Brunswick Golf Club

165 River Road

Mr. Patrick Badcock

Manager Gerrish said they are proposing to have bands and DJ's for weddings and functions.

Chair King opened the public hearing; hearing no comments, she closed the public hearing.

Councilor Sartoris moved, Councilor Daughtry seconded, to approve the Special Amusement license for the Brunswick Golf Club. The motion carried with nine (9) yeas.

55. The Town Council will hear public comments on the proposed Ordinance regarding Basic Requirements for existing Outdoor Wood Boilers on an emergency and regular basis, and will take any appropriate action.

Manager Gerrish said Councilor Augur is sponsoring this item. These proposed requirements for existing outdoor wood boilers include registration, operational times, and types of wood burned. Once the required public hearing is held, he is requesting that the Council enact this ordinance on an emergency and regular basis.

Deputy Fire Chief Emerson explained the operation of the boilers and said the Council will need to add the definitions for seasoned dry wood. He and Jeff Hutchinson, Code Enforcement Officer, did site visits and information is included that six out of eight are complete and ready for registration.

(A copy of information from the Deputy Chief Emerson will be attached to the official minutes.)

Robert Van Vranken, 117 Penneville Road, said he has one of these boilers. He shared some thoughts on them with the Council:

- The science on these devices has not been done and there needs to be a DEP study made

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- The amount of smoke from his boiler was 15% more than a wood stove, but when they are first started there is a great deal of smoke
- The growth and use is limited
- They are a safety improvement over indoor wood stoves
- Wood is a local resource and using it helps the Maine economy
- There are several graphs that need to be included about what it takes to get other energy sources, including refining and drilling

Allen Higgins, Bridge Road, talked about the importance of wood burning. It is carbon neutral. In Vermont, wood chips are getting used more by towns. He encourages the town to get more education. It is a renewable resource that is worth pursuing.

Jeff Welt, 165 Hillside Road, said this is first and foremost a public health issue. There are a lot of problems related to the fumes from the outdoor boilers. This has been a major issue for his family. He would like to see the seasonal ban be more than five months. The EPA has strict guidelines for wood stoves and he would like the outdoor boilers to be categorized as wood stoves.

Karen Klatt, 32 Moody Road, would like to know how the types of wood being burned is going to be regulated.

Dorina Morin, 190 Hillside Road, said since using the outdoor boiler, she has not had a cold like she had in past years; her grandsons did not have asthma attacks this winter like they did with their wood stove.

Phil Morin, 174 Hillside Road, said he is opposed to the ordinance, which restricts time of use, since they generate hot water for twelve months a year. He asked how wood stoves get policed.

Chair King closed the public hearing.

Manager Gerrish said currently there is a ban on all new wood boilers until July 1, 2007, and this proposal is for existing ones only.

Councilor Sartoris said there should be a distinction between those boilers with problems and those without. They should be dealt with differently as Deputy Chief Emerson has suggested. It is a density issue and how close one is to other residents. The town should allow the non-nuisance ones to operate all year, and the limit would be for those who have generated complaints.

Chair King said the site visits have been very helpful. She would like to have the Council go to the sites and take the time to do this right.

Councilor Webb said he liked the idea of restrictions focusing on problem sites, but the town still needs to look at this as a health issue.

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Councilor Augur said he is troubled about regulations based on phone complaints, but it does make sense having a density requirement as to when a boiler could be used year round. For example, if less than 300 to 500 feet, there would be a restriction on the time when it could be used, or if more, there would be no restriction on operation times. He would like to vote tonight to address the health issue and approve it as is, then they could work on crafting something less restrictive which is based on distance.

Chair King said that may not be the case since some are very close but do not cause a problem due to their proximity.

Councilor Daughtry said she does not want to single out some and not others. The Council should act on this tonight so the seasonal bans can be put into place.

Councilor Schneider said he is comfortable with the ordinance in front of him tonight since it is fair to both sides.

Councilor Sartoris said her concern is a density issue. The density issue can be a problem, since the first one getting the boiler could prevent neighbors from purchasing one. A group of Councilors could work to draft up so something for the July 1, 2007, time frame.

Chair King said the State Legislature is working on this issue.

State Representative Gerzofsky said a committee will be hearing a bill on Thursday but he is not sure where it is going. They are looking at EPA standards.

Councilor Sartoris moved, Councilor Ewing seconded, to adopt the Basic Requirements on existing Outdoor Wood Boilers on an emergency and regular basis. The motion carried with eight (8) yeas. Councilor Favreau was opposed.

(A copy of a packet of information from Deputy Fire Chief Jeff Emerson, as well as the adopted Basic Requirements, will be attached to the official minutes.)

56. The Town Council will review requests for Base property from the Conservation Commission, Recreation Commission, Police Department and the School Department, and will take any appropriate action.

Manager Gerrish said this item is to review requests for base property from the Conservation Commission, Recreation Commission, Police Department and the School Department. The Police Department provided information earlier on their request for the firing range and the five-acre parcel. The request must be submitted to the BLRA by May 14, 2007.

(A copy of the BLRA State and Local Screening Provider Notice of Interest Application Package will be attached to the official minutes.)

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Jeff Ward, Chair of Recreation Commission, explained that Parcel 11 fields have environmental issues that are being remediated and they will be clean in twelve years. Site 2C will meet the Recreation Department needs well. It is partially cleared and flat. He added that parcels 2A and 2B are no longer in their request.

Commander Desjardins said the Police Department is looking at several parcels including a location for the police station and the indoor shooting range.

Manager Gerrish said, responding to Councilor Sartoris' question on the firing range, this is for pistols and the police can do 80% of their training there. Commander Desjardins added that the officers could do all their side arm qualifications, but rifles are still done outside. Manager Gerrish added that the town wanted to make it available to surrounding towns to use, which will offset some of the cost. He believes the officers will still be able to use the Topsham location for rifle qualification.

Councilor Favreau said it is a state of the art facility. Commander Desjardins added that it has a sophisticated air system.

Steve Levesque, Executive Director of the LRA, explained the process. After the town approves their requests, the applications go to the LRA by May 14, 2007. The requests then go to the State and Local Screening Committee, who will make recommendations to the full board. The Board will decide what will fit into the whole plan. This is the beginning of the process. If there are public benefit conveyances, it will be attached and given to the Navy to decide how the property will be conveyed. Each entity has a different sponsor that has different rules as to how it can get that property. This is a multi-stage process. The town can say no until it needs to sign the deed.

Councilor Watson asked, in the application process, at what point the town has to include financial information on how to develop the sites.

Mr. Levesque responded that is part of the process and put in as much detail as possible, but the data can continue to be developed.

Peter Lowe, Thompson Street and representing the Sports Done Right Committee, said there is a need for field space. They have been working for eighteen months with the School and Recreation Departments to see what athletic programs are being offered to the town's students. He is concerned about a privatization of services where only those who can afford it could participate.

Chris Livesay, Chair of the Town Commons Committee, said he had drafted a report on this issue on behalf of the committee. There should be some handicap accessibility to these trails, which would make the application stronger.

(A copy of Mr. Livesay's memo will be attached to the official minutes.)

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Conan McNamara, Board of Brunswick Teen Center, said there are a couple of locations the Recreation Department is asking for that will be great for recreation activities in East Brunswick.

Councilor Sartoris moved, Councilor Favreau seconded, to authorize the Town of Brunswick making applications as presented for the Police and Recreation Departments, for conservation property, and properties for Bowdoin College.

Manager Gerrish said, responding to Councilor Watson's question on operational costs, the town is still working on them and they are not going to have all the specifics by May 14. Before making the final decision to take ownership, the town will need to make the financial decisions. If the town makes the commitment, they must be able to demonstrate the ability to fund the projects and facilities.

Councilor Sartoris added she wanted to include Mr. Livesay's request for handicap accessibility in the conservation request.

Loraine Kohorn, Conservation Commission, talked about having conservation easements and where they should be.

Mr. Levesque said, responding to Councilor Augur's question about negotiating for the property, the Navy approves locations based on the plan so if property is sold it has to be consistent with the Master Plan and zoning requirements.

Councilor Sartoris moved, Councilor Favreau seconded, to authorize the Town of Brunswick making applications, as presented, for the Police and Recreation Departments, for conservation property and properties for Bowdoin College. The motion carried with nine (9) yeas.

57. The Town Council will discuss Maine Partners for Cool Communities, and will take any appropriate action.

Manager Gerrish explained the Mayor's and the State's agreement on Cool Communities. It appears that by entering into this type of agreement, the town is not committing funds, but instead, they are committing to develop a plan. The Council can discuss what action, if any, they wish to take with this item. Councilor Ewing has included information concerning the Recycling Committee taking on the responsibility to oversee this project. The Council could agree to the Mayor's agreement without using any funds. The carbon challenge needs more research, and the revised Recycling Committee could look at this and the mayors climate protection plan.

(A copy of the US Mayors Climate Protection Agreement, Governor's Carbon Challenge, and proposed make up and charge of the Recycling and Sustainability Committee will be attached to the official minutes.)

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Councilor Ewing said a proposal for a Recycling and Sustainability Committee puts extra focus on working on sustainability issues. This committee would meet with existing groups to work on this subject.

Councilor Sartoris said there are some costs up front to save money in the long run, so this committee should come back next year with budget numbers.

Councilor Sartoris moved, Councilor Ewing seconded, to adopt the US Mayors Climate Protection Agreement. The motion carried with nine (9) yeas.

Councilor Ewing moved, Councilor Daughtry seconded, to change the current Recycling Committee to the Brunswick Recycling and Sustainability Committee and to adopt its charge.

Councilor Favreau was concerned about government operations that the committee may be looking at since they are the town manager's responsibility.

Councilor Ewing said this would be more general recommendations like printing on both sides of paper, energy saving methods. It would be making recommendations on improvements to the efficiency of the town.

Councilor Ewing moved, Councilor Daughtry seconded, to change the current Recycling Committee to the Brunswick Recycling and Sustainability Committee and to adopt its charge. The motion carried with nine (9) yeas.

58. The Town Council will discuss the recommendation from the Old High School Committee, and will take any appropriate action.

Manager Gerrish said this item is to discuss the recommendation of the Old High School Committee and updates from Council members on the Elementary School Committee regarding a timetable for deciding the site of the new elementary school.

Councilor Favreau said the Elementary School Committee process has gone past the March deadline for site selection and he cannot foresee a decision on the site for at least eight weeks.

Councilor Daughtry said they are narrowing sites to two, of which this site is one, and they are waiting for state required appraisals. They expect to vote by the first of July.

Manager Gerrish added that the committee will make a recommendation by the end of June or first of July. After that there are other processes that have to happen, including a referendum vote for final approval.

Manager Gerrish said the town will have to run this facility (old high school) for another year since there are no answers yet as to what will happen.

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Councilor Sartoris said there has been frustration about making a decision on this site and waiting for this issue to be resolved. It looks like there will be no answer for six months. She would like to move forward to get information on pre-qualifying firms and paying for an RFP. It would cost some money; if there were four firms, \$3000 to \$4000 per proposal. The value is the Council will not have to wait to see what proposals there may be.

Manager Gerrish said the town did something similar for the fire substation, so it can be done, and it allows firms to get something back for their work. He would have to look at this and come back with a proposal.

Chair King said Councilor Sartoris' suggestion is one way to go and the other may be as she feels, the whole process has worked well with the work of the committee, keeping the use of the gym and keeping the playing fields. If this becomes the new school site, the town may not be able to do it. She is comfortable with the Manager coming back with more information on Councilor Sartoris' suggestion.

Councilor Augur said the committee asked firms about how the RFP and RFQ should be put together, and the firms all said that the issue with the school needs has to be resolved first. His first thoughts are that paying for an RFP will not give the Council what they want. Maybe the best thing to do is to just wait until the school site issue is resolved and then put out an RFQ.

Councilor Sartoris agrees, if the town cannot get developers to respond it would not be good.

Councilor Schneider said he supports the Old High School Committee's recommendation.

Margo Knight appreciates Councilor Sartoris' frustration and solution, but the town is talking about a few months. If the town puts it out too soon, they will have time available to look at them. If the town does not get responses, they cannot be sure if it is because there was no interest or if it was not the right time to put it out. As long as the school issue is hanging over this site, the town would not get the best response.

Councilor Favreau said if they choose this site and it means taking the field and losing the gym, the referendum may not pass.

Manager Gerrish said they have to look at all these costs to offset it. The Council will be part of this decision making process. The appraisal of possible school sites is being done so they can compare "apples to apples" with all the sites.

Councilor Webb said he is leaning toward keeping things going.

Chair King said it is probably appropriate at each agenda meeting to see where this issue stands.

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Manager Gerrish said the town could ask the developers if it would be helpful if the town were to pay something.

Mr. Holtwijk, Director of Planning and Development, said they did not ask the developer that question about if they would be interested in being paid to create a possible proposal. The Council needs to consider that even if this was the preferred site, would they consider an alternate plan for the site instead of using it for a new school.

Councilor Sartoris said Mr. Holtwijk raises a good question. If the Council is not going to support this site for an elementary school then that is not going to be fair if they do not have any information on other uses for the site. The Council needs to know what options are out there if the Council does not want to support this as the school site.

59. The Town Council will consider consolidation of voter districts for the special election in June, and will take any appropriate action.

Fran Smith, Town Clerk, explained there is proposed state legislation that would allow the Council to consolidate the polls for this upcoming special election in June. She is asking that the Council consider this since she does not have a budget for this unscheduled election and it may be difficult to get election workers. The consolidation would save the town about \$7,000.

(A copy of a memo from the Town Clerk will be attached to the official minutes.)

Councilor Augur moved, Councilor Sartoris seconded, to set a public hearing for May 7, 2007, to consolidate voting locations for the Special State Election on June 12, 2007.

State Representative Gerzofsky said the bill has to go through the process and it will take several weeks before it is considered and then would need to be passed on an emergency basis to be effective for this June.

The motion was withdrawn after Representative Gerzofsky's comments were taken into consideration and the possibility of not having an answer in time for this election.

60. The Town Council will consider a one-year contract extension with the ASFCME Union, and will take any appropriate action.

Manager Gerrish has had discussions with the ASFCME Union, who are agreeable to extending their contract for an additional year with the condition that they are given a 4% COLA for the upcoming fiscal year.

Councilor Sartoris moved, Councilor Schneider seconded, to accept the extension with the AFSCME Union for a 4% COLA for the upcoming year. The motion carried with nine (9) yeas.

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- 61. The Town Council will consider a one-year contract extension with the Police Communications Union, and will take any appropriate action.**

Manager Gerrish has had discussions with the Police Communications Union, who are agreeable to extending their contract for an additional year with the condition that they are given a 4% COLA and a minor change in longevity for the upcoming fiscal year.

(A copy of a memo from Commander Schofield will be attached to the official minutes.)

Councilor Webb moved, Councilor Augur seconded, to accept the contract extension with the Police Communications Union for a 4% COLA for the upcoming year, along with a change in longevity. The motion carried with nine (9) yeas.

- 62. The Town Council will discuss the charge of the Economic Development Feasibility Study Committee, and will take any appropriate action.**

Manager Gerrish said this item is to discuss the charge of the Economic Development Feasibility Study Committee.

Councilor Sartoris moved, Councilor Watson seconded, to adopt the charge for the Economic Development Feasibility Study Committee. The motion carried with nine (9) yeas.

(A copy of a memo from the Town Manager outlining a process and charge will be attached to the official minutes.)

- 63. The Town Council will consider setting a public hearing to amend the Community Health and Land Care Ordinance to exempt Coffin Pond from the ordinance, and will take any appropriate action.**

Manager Gerrish said this item is to consider setting a public hearing to amend the Community Health and Land Care Ordinance to exempt Coffin Pond from the ordinance. The town is working on the issue with DEP regarding using chlorine in the pond.

Councilor Favreau moved, Councilor Daughtry seconded, to set a public hearing for May 7, 2007, to amend the Community Health and Land Care Ordinance to exempt Coffin Pond from the ordinance. The motion carried with nine (9) yeas.

- 64. The Town Council will consider appointments to the Planning Board and Zoning Board of Appeals on Town's Boards and Committees, and will take any appropriate action.**

Chair King thanked the subcommittee for all their work. The Council is fortunate to have several qualified people who applied to the Planning Board. She is hoping tonight that nominations are made and positive comments are made on their qualifications.

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Councilor Augur said there were eight applicants for the Planning Board, all of whom were very good candidates. He listed the applicants and said they all had different levels of qualifications. He and Councilor Favreau are putting forward Jeff Peters' name to fill the vacancy. Mr. Peters works with land use laws and is a current member of the ZBA. He also served on other non-town boards.

Councilor Webb said he had a process question about getting more information on the conflict of interest issues prior to tonight's voting. He is also concerned about the application closing period and that some had applied after it. He wanted to postpone a vote until his questions were answered.

Councilor Favreau said the deadline was extended since there was a new Appointments Subcommittee, who need to interview all applicants.

Councilor Sartoris said it is a disservice to applicants when the process becomes as malleable as it has become. When she served on the Appointments Subcommittee, the process was clear and the same for all applications. The process has shifted into something different than it was and the Council needs to re-look at this. Councilor Augur indicated he wanted to have a unanimous recommendation of the subcommittee, but this is not in the charge of that committee. She is concerned since the process is not clear anymore, to her or those putting in an application, even though it was not done with any ill intention. She is uncomfortable with the product of the process, not the person being recommended.

Chair King said Councilor Webb's and Councilor Sartoris' comments are duly noted and leaves the message that policy and process need to be revisited, but she wanted to call for a vote on this person unless five Councilors want to look at the process before making an appointment.

Jeff Peters appointments to the Planning Board vacancy received votes of support from Councilor Watson, Councilor Schneider, Councilor Favreau, Councilor Augur, and Chair King. With five (5) yeas, he was appointed to the position.

Councilor Augur nominated the following persons:

Arlene Morris – Davis Fund Committee (expiring 06/30/2009)

Weld Henshaw – Conservation Commission (expiring 05/01/2010)

Judith Harris – Housing Authority (resident member expiring 06/03/2012)

Russell Pierce – Housing Authority (expiring 06/03/2012)

Shirley Chase – Zoning Board of Appeals (Associate member expiring 07/01/2009)

Sande Updegraph – Zoning Board of Appeals (Full member expiring 11/20/2009)

The Council voted nine (9) yeas to appoint the nominated people.

Councilor Watson said there is a proposed policy that will be working to address the conflict of interest issue and he would like to have it come back to the Council in June. It has not come back earlier because of all that is going on.

CONSENT AGENDA:

- a) **Re-appointment of Harry Darling and Harry Gorman as civil constables for the Town of Brunswick**
- b) **Utility Location Permit requests from Maine Natural Gas**

Councilor Sartoris left the meeting.

Councilor Watson moved, Councilor Schneider seconded, to approve the consent agenda. The motion carried with eight (8) yeas.

(A copy of memos from John Foster, Public Works Director, four applications, and a map of the locations, will be attached to the official minutes.)

Councilor Webb said he would like the Council to revisit the appointments issue or give more direction to the Appointments Subcommittee about conflict of interest and deadline setting.

Councilor Augur said it was his idea to hold over the nominations so they could get a compromise candidate that everyone on the Appointments Subcommittee could agree with. Some of the confusion was around the fact that one of the applicants felt the application deadline was an indication that if one gets their application in then no other applications could be considered after that deadline. It is a deadline to get an interview in any given month. The staff is trying to change language in the application so that it is clear that it is for a certain interview date. There is nothing in the subcommittee's charge that makes them make a decision on that applicant. If the Council wants to look at that, it is a great idea. He does not want the public to be confused with the idea of process. In his mind the disappointment is with the decision rather than the process.

Councilor Ewing left the meeting.

Councilor Watson moved, Councilor Schneider seconded, to adjourn the meeting. The motion carried with seven (7) yeas.

The meeting adjourned at 10.10 p.m.

PLEASE NOTE: THESE MINUTES ARE NOT VERBATIM. A VIDEO RECORDING OF THE MEETING IS AVAILABLE AT THE TOWN CLERK'S OFFICE DURING REGULAR BUSINESS HOURS.

*Frances M. Smith
Town Clerk
July 15, 2007*

July 23, 2007

Date of Approval

Council Chair