

February 22, 2022

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MINUTES  
SELECTMEN'S MEETING  
TOWN HALL  
GRIFFIN ROOM  
TUESDAY, FEBRUARY 22, 2022  
6:15PM EXECUTIVE SESSION  
6:30PM REGULAR MEETING  
REMOTE PARTICIPATION OPTIONAL

**SELECTMEN PARTICIPATING:** Michael MacAskill, Julie Kavanagh, Larry Ballantine, Donald Howell and Mary Anderson

**ALSO PARTICIPATING:** Assistant Town Administrator Meggan Eldredge

**CALL TO ORDER:**

Chairman MacAskill opened the Board of Selectmen's meeting for February 22, 2022 at 6:15PM. Ms. Anderson moved to enter into Executive Session, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously.

**EXECUTIVE SESSION**

- A. Executive Session pursuant to GL c30A s21(a)(7) to comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements ("Purpose7")-the Open Meeting Law, GL c30A ss 22(f), (g)-To review, approve and/or discuss the possible release of executive session meeting minutes dated December 9, 2021
- B. Pursuant to MGL c30 section 21 (a)(3) to discuss with respect to collective bargaining for all town unions and the Chair has determined that open session would have a detrimental effect on the town's bargaining position

Mr. MacAskill reopened the Board of Selectmen's Meeting reporting that in Executive Session the Board approved Executive Session minutes from December 9, 2021. The Board did not approve releasing those minutes. With respect to collective bargaining, no decisions were made. Executive session adjourned at 6:23PM and Regular Meeting opened at 6:30PM. Mr. MacAskill invited all attendees to join in the Pledge of Allegiance. He stated that "G" will be pulled and included in the budget discussion.

**JOINT MEETING WITH BOARD OF SELECTMEN AND FINANCE COMMITTEE**

- A. Discussion and possible vote by the Board of Selectmen to approve or amend the Town Administrator's draft Fiscal year 2023 budget
- B. Discussion and possible vote by the Board of Selectmen to submit the fiscal year 2023 Budget to the Finance Committee
- C. Discussion on next steps

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Mr. MacAskill stated that the Board will not be handing over the budget as a finished product but by way of Charter they will hand the budget to the Finance Committee so they can start their work.

John Chorey Chair of the Finance Committee called the Finance Committee meeting to order. Five members are present and one is attending remotely.

G. Discussion and possible vote to approve the SAFER Grant for Fire Department staffing.

David Leblanc Fire Chief presented an overview of the Grant and explained why he is hoping to increase staffing. The detailed information is in the packet.

Craig Thornton Deputy Fire Chief explained in detail the staffing situation and why more EMT's, Paramedics and/or Firefighters are needed. He also explained what the grant covers for years 1, 2, and 3. The town would have to fund the positions starting in year four.

Mr. MacAskill broke to return to Public Comments and Announcements.

#### **PUBLIC COMMENTS/ANNOUNCEMENTS**

Mr. McManus spoke of the Key Club and what they do for the community. There is a fund raiser for them at the Seal Restaurant on Sunday. He noted what the proceeds will be used for.

David Considine Deputy Chief announced a Polar Plunge to benefit the Special Olympics Massachusetts. It will be March 26th at 11:00AM at Red River Beach. He invited all to participate.

Cindy Williams is inviting businesses to challenge one another and participate in the Plunge.

#### **RETURN TO FIRE DEPARTMENT CONVERSATION**

Mr. Ballantine expressed concerns of funding in the long term. He questioned the numbers on shifts and how hiring 4 increases the minimum to 8. He requested they develop a long term plan.

Ms. Kavanagh also commented that they have to figure out how they will pay for the positions in year four. She compared numbers to Brewster's Fire Department. She asked if the difference is related to having Fontaine or just the population.

Chief LeBlanc replied that it is somewhat Fontaine but it is average to increase 3-5 % in runs each year.

Ms. Anderson understands the goal but is also concerned about the math. She asked if they would be aware that they're hired under a grant and may not be funded after 3 years.

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Chief LeBlanc replied that the town is not obligated to keep the firefighters on after 3 years. He also stated that they need to have a funding mechanism for these positions.

Mr. Howell commented that the Town of Dennis is more comparable to Harwich. If this is a need, they will have to address it with or without the grant.

Chief LeBlanc commented that the second station is the difference in staffing needs. He described how Dennis is paying for their staffing positions with grants. He also confirmed that none of this is in tonight's budget.

Mr. MacAskill has the same concerns about funding and asked about new positions and Town Meeting in year four.

Chief LeBlanc replied that it will be an increase in staffing and does not go to Town meeting.

Mr. Howell disagrees and feels it will have to go to Town Meeting.

Mr. MacAskill suggested that Board members get those answers before the next meeting. He noted that the housing crisis is effecting where the firefighters live and it's getting further away. He feels that overtime is more expensive than new hires and explained his reasoning. He will get questions to the Finance Committee and in the near future have answers and then have a standalone meeting on the grant to let the Fire Chief know their decision. He thanked Chief LeBlanc for the detailed report.

Mr. Keller Finance Committee asked if the Fire Department had any retirements scheduled for the next few years.

Chief LeBlanc replied that they do however, they are hoping to increase staff not just replace retirees.

Dan Tworek Finance Committee commented that from personal experience, he commends the Department for their great service and spoke highly of his experience with them.

Mr. LaMantia appreciated the presentation and feels the key is to find the money to cover the fourth year. He feels it must be done.

Mr. Chorey asked how much the Chief expects the over time to go down. He also asked why there are 3 in each ambulance. He confirmed that at the end of 3 years the town is not obligated to keep the new hires.

Chief LeBlanc does not see much of a savings in overtime, the numbers are difficult to quantify. It is an industry standard to have 3 on an ambulance and he stated the reasons. He thank the Board for their time.

Carol Coppola Finance Director distributed printed binders for the Finance Committee and the Board of Selectmen. She noted 2 changes, explained what and why.

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Mr. Howell needs time to look it over.

Ms. Anderson agreed, more time is needed.

Ms. Kavanagh also agreed and appreciated the printed version.

Mr. Ballantine is interested in how it compares to the budget message.

Mr. MacAskill asked about the 3.6 million in Free Cash.

Ms. Coppola replied with what Free Cash had been used for and what it can be used for. The Operating Budget is a balanced budget. It does not include any COLAs for any employees which is significant. She explained that Retained Earnings were certified for enterprises and explained how that can be used. She did not include detailed line items, the information is available if wanted.

Mr. Ballantine asked if the Wastewater Retained Earnings can be used for other line items.

Ms. Coppola replied they can be used to fund projects but only as pertains to wastewater.

Ms. Kavanagh asked about the amount in OPEB.

Ms. Coppola replied that in the Operating Budget there is \$250,000 going into OPEB. Stabilization has nothing, it's typically a separate article.

Mr. MacAskill noted the ARPA funds are zero.

Ms. Coppola replied that they have not proposed to use ARPA Funds as they have not come before the Board to make a presentation. It is on the agenda next week.

Mr. Chorey asked about local receipts and some department's lower forecasts. He asked about the Cultural Center, if there'd be a separate presentation.

Ms. Coppola explained the numbers, they are conservative and don't put the town at risk.

Mr. MacAskill replied that yes, the Cultural Center will have a separate presentation.

Mr. Tworek asked for an explanation to the wording "unappropriated Free Cash expires at the end of each fiscal year".

Ms. Coppola explained the state reporting process at the end of the fiscal year and that if those funds haven't been appropriated or used, they expire. Then the process begins again.

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Ms. Anderson moved that the Board of Selectmen vote to submit the Fiscal Year 2023 budget to the Finance Committee in draft form, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously,

Ms. Anderson moved to vote to approve or amend the Town Administrator's draft Fiscal Year 2023 budget subject to revision, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously.

Mr. MacAskill stated that for next steps, they usually plan a Saturday, an all-day Finance Committee, Board of Selectmen and Department heads and they go through their budgets. He suggested March 12th. He requested proposed dates be sent to the Finance Committee chair and the Board of Selectmen. Other times and days were also discussed.

Mr. Chorey moved to close the Finance Committee meeting, 2nd, vote 6:0 in favor by roll call. Motion carried unanimously.

### **CONSENT AGENDA**

A. Vote to approve the Town Administrator's recommendations to grant permission of NSTAR Electric Company D/B/A Eversource Energy for the purpose to install (1) fully owned pole labeled P58/10 and anchor for electric service for 71 Oliver Snow Road

B. Vote to approve Board of Selectmen meeting minutes;

1. November 15, 2021(**not mentioned in motion as these Minutes were not approved at this meeting**)

2. March 8, 2021

3. March 15, 2021

Ms. Anderson moved to approve the consent agenda as presented, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously.

### **NEW BUSINESS**

A. Discussion on the process of naming a Temporary Town Clerk in accordance with MGL Chapter 41 s 14

Ms. Anderson moved to vote to approve the naming of a Temporary Town Clerk in accordance with MGL Chapter 41 s 14

Mr. MacAskill noted that the name of the person recommended is James Mullen.

Assistant Town Administrator Eldredge noted that he is scheduled to start the 28th.

Motion 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously.

B. Discussion - Inspection Group for licensed establishments.

Mr. MacAskill commented that this comes from the entertainment license summit. This is to formalize having a group.

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Ms. Anderson moved to vote to form an inspection group for the licensed establishments, 2nd by Ms. Kavanagh.

Mr. MacAskill noted that it would be the Town Administrator that would form the group. It presently includes the Police Chief, Fire Chief, Health Director and Building Commissioner. He looks to the Town Administrator to put a memo together and formalize who the group would be and when it is actually formalized.

Vote 5:0 in favor by roll call. Motion carried unanimously.

C. Discussion and possible vote to amend the Harwich liquor License Regulations  
Section 1.09 sub-section E

Mr. MacAskill addressed Attorney Blake about the amendment by removing the term “of source of sound amplification system whichever is further “under the outdoor entertainment section. That request also came from the summit, to remove those words and just go with the boundary line.

Ms. Kavanagh noted that if they go to the boundary line verses the source of amplification, it would look as if the Board is favoring one over the other. She asked if technically they can do that.

Attorney Blake replied that some properties are quite large and 150 feet from the boundary line would give them 300-400 feet from the source of amplification. Doing it from the boundary line may or may not put some establishments at a disadvantage. He does not feel there is an issue with doing that. He also noted the wording regarding creating a nuisance which creates 2 levels.

Mr. Ballantine prefers coming from the source but the boundary is easier to enforce.

Ms. Anderson agreed but is concerned especially with the smaller establishments. She prefers source of amplification.

Mr. Howell commented that there is a third option of the bounds of the envelope of the building that's on the property. He is especially concerned about Harwich Port and does not feel this is flushed out enough to make a move.

Mr. MacAskill commented that there have been extensive conversations about liquor regulations. The Police Chief has been asked to understand and enforce the Liquor Regulations and specific to this would be nuisance which can be anywhere. He feels people should know that the Board is taking this seriously. He thinks the bounds make more sense for the noise by law and in the Liquor Regulations keeping in mind nuisance which allows them to pull their license. Boundary lines will make it a lot easier for the Police Officers.

Ms. Anderson commented that if Chief Guillemette thinks the boundary line makes his job easier, she is for it.

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Bob Nickerson disagrees with the decision and explained his reasons.

Ms. Anderson read from the Liquor Regs in response. The Liquor Regs have stronger language than the noise bylaws.

Mr. MacAskill stated that they are going to regulate businesses based on nuisance. He believes this is a better tool to enforce and keep peace for the residents.

Mr. Howell commented that he is still in favor of 150 feet from the building rather than the property line and explained his reasons. His concern is that noise is from things other than entertainment.

Ms. Kavanagh commented that all that is in the Liquor License Regulations and is the establishment's responsibility.

Mr. Ballantine commented that it has been discussed a lot and it's time to make a decision and move on it.

Bob Cohen attended remotely, he had submitted a letter and asked to share his screen and share a presentation. He explained his opinion regarding nuisance, outdoor licenses and the 150 feet issue and expressed his concerns.

No further public comments, return to Board deliberation.

Mr. MacAskill commented that the Board has done its job and explained the steps taken to refine the process, regulating hours, type of music that can be played, the Police Department is on board, the Board's message is clear and there's a clear path going forward. The ones that are violating will lose their licenses. They will go through the process and the Board will make and alter their licenses.

Mr. Howell commented that the key is an understanding with the Police Department and the Licensees. There are to be clear guidelines and consequences.

Mr. MacAskill stated that when the Chief has the mandatory meeting it will be clear that if noise is a nuisance it won't matter how many feet away it is.

Ms. Kavanagh commented that the Board should have a meeting with the businesses and explain that the Board will move on all violations.

Mr. MacAskill commented that several emails were sent and one said that the businesses that want to cooperate with their neighbors have reached out to them. That is what they are looking for. A lot of people like what is going on in Harwich Port. The message is wide spread and he thinks they should move forward.

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Ms. Anderson moved to vote to amend the Harwich Liquor License Regulations Section 1.09, sub-section E by removing the term or source of sound amplification system whichever is further under the outdoor entertainment section, 2nd by Ms. Kavanagh. Vote 5:0 in favor by roll call. Motion carried unanimously.

Attorney Blake commented that there is more than striking out the source of sound amplification whichever is further. They had talked about a statement that amended to say no entertainment at the premises may be conducted in a manner such that the noise from the entertainment is creating a nuisance or plainly audible at a distance of 150 feet from the boundary line of the premises.

Mr. Ballantine moved to rescind the motion, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion to rescind carried unanimously.

Atty. Blake offered the wording- Move to amend the Section 1.09 E outdoor entertainment to read as follows: Outdoor Entertainment-No entertainment at the licensed premises may be conducted in a manner such that the noise from the entertainment is creating a nuisance or plainly audible at a distance of 150 feet from the boundary line of the premises.

Mr. Howell added, and to remove existing conflicting language.

Atty. Blake offered, Move to strike the existing outside entertainment in its entirety and replace it with the following: (same as above)

Mr. Ballantine moved to strike the existing outside entertainment in its entirety and replace it with the following: Outdoor Entertainment - No entertainment at the licensed premises may be conducted in a manner such that the noise from the entertainment is creating a nuisance or plainly audible at a distance of 150 feet from the boundary line of the premises, 2nd by Ms. Anderson. Vote 5:0 in favor by roll call. Motion carried unanimously.

D. Discussion and possible vote to create a 2022 Annual Town Meeting Warrant Article amending the Noise By-law by exempting M.G.L. Chapter 138 Licensees

Ms. Anderson sees no harm in keeping the noise bylaw but is looking for clarification.

Atty. Blake noted that Liquor Regulations are more specific and targeted to the licensees. That is typically why a lot of the noise bylaws are exempting Chapter 138. The Board of Selectmen are regulating those more strictly. It is also clearer for the licensees to not have one conflicting the other.

Mr. Cohen expressed concerns of rushing this into Town Meeting and thinks it should be looked at more closely and explained his reasons.

Mr. Howell commented that if the public would like them to go slower they should put it on the Town Meeting Warrant.

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Mr. Ballantine agreed that it's time to put it on the Town Warrant.

Ms. Kavanagh agrees that they should stick with the Liquor Regulations.

Ms. Anderson moved to vote to create a 2022 Annual town Meeting Warrant Article amending the Noise By-law by exempting MGL Chapter 138 licensees, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously.

E. Discussion and possible votes - MGL Chapter 138 licensees

1. Discussion and possible vote to make the Town's Annual Licensing Meeting with MGL Chapter 138 Licensees mandatory or license will not be renewed (Annual Licensees will meet in November and Seasonal in February)

Mr. Howell is in favor of these.

Ms. Anderson agreed as did Ms. Kavanagh and Mr. Ballantine.

Mr. Nickerson supports this and asked that certain points be emphasized.

Deputy Chief Considine offered a recommendation of adding language of who should attend the meeting. He stated: The attending representative should be one of the following, the manager of record of the license, the licensee if a natural person, an officer or director of record with the local licensing authority or the Massachusetts Secretary of State's Office of the licensee which is not of a natural person or a managing agent of the licensing entity.

Cindy Williams Executive Director of the Chamber of Commerce noted that it's broken down annually and seasonally but it's almost March and she asked what is being done this year.

Mr. MacAskill replied that they'll have to do this year.

Atty. Blake pointed out that he added a sub-section C to 1.01 and he suggests that what the Deputy Chief gave them be added to the new sub-section.

Ms. Anderson moved to vote to change the Harwich Liquor Regulations Section 1.01 C striking out what was previously there and it shall say "All licensees new and renewal shall annually attend the Chief of Police's Annual License Meeting with MGL Chapter 138 licensees. Annual licensees will meet in November and Seasonal will meet in February. Failure to attend the Chief's meeting shall result in a denial of a new license and a non-renewal of a previously held license. The attending representatives shall be one of the following: The manager of record of the license, the licensee if a natural person, an officer or director of record with the Local Licensing Authority, or the Massachusetts Secretary of State's Office of a licensee which is not a natural person or a managing agent of the licensed entity". 2nd by Ms. Kavanagh.

Atty. Blake confirmed, that covers it.

Mr. Howell commented that they should do something this year.

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Mr. MacAskill stated that they will have a meeting this year but more in the format that they have been using.

Ms. Kavanagh commented that having a meeting with the community and having that discussion is something the Board should attend. They should discuss the new overview of the Board in terms of the nuisance and the changes they've made and why they're making them along with what will be expected of the licensees.

Ms. Anderson asked why it could not be done this year.

Ms. Eldredge commented that they have not yet sent out seasonal renewals.

Mr. MacAskill commented that they can do it with seasonal renewals but they will need a meeting on the annuals because they have already been done.

Mr. Howell asked Atty. Blake if it is appropriate for the Licensing Authority to attend such a meeting.

Atty. Blake replied that he does not see an issue with the Board attending the meeting.

Vote 5:0 in favor by roll call. Motion carried unanimously.

2. Discussion and possible vote to implement that each MGL Chapter 138 licensee sign an acknowledgement receipt that they have received the Town of Harwich Liquor License Regulations (this receipt will be sent with Annual/Seasonal license renewal packets)

Ms. Kavanagh suggested to change the wording to add "adhere and train"

Ms. Anderson would add, in place of "distribute to staff" the wording to add to ensure that all employees who work in the public area of the premises read and comply with the Harwich Liquor License Regulations.

Mr. Howell commented that it should read The Harwich Liquor Licensing Authority (The Selectmen acting as that Authority)

Mr. MacAskill confirmed the wording to be correct with Atty. Blake.

Ms. Anderson moved to vote to implement that each MGL C. 138 licensee sign an acknowledgement receipt that they have received the Local Licensing Authority's Liquor License Regulations. The language in the acknowledgement will say "Confirmation of the receipt of the Harwich Board of Selectmen Liquor License Regulations, I the undersigned acknowledge receiving a copy of the Harwich Local Licensing Authority Regulations. I understand that it is my responsibility to review, comprehend and adhere to the information

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contained within the regulations and to ensure that all employees who work in the public areas of the premises read and comply with the Harwich Liquor License Regulations, 2nd by Mr. Howell.

Mr. Howell noted that the header should also change to "Confirmation of receipt of the Harwich Local Licensing Authority Regulations.

Vote 5:0 in favor by roll call. Motion carried unanimously.

F. Discussion and possible vote on the miscellaneous re-appointments

Ms. Anderson moved to vote on the miscellaneous re-appointments as listed, 2nd by Mr. Ballantine

Mr. Howell commented on receiving agencies and their requirements for terms and what they should analyze moving forward.

Mr. Ballantine added the Accessible Disabilities Rights Committee as there is a Federal requirement for that also.

Vote 5:0 in favor by roll call. Motion carried unanimously,

**OLD BUSINESS**

A. Update on the following projects:

1. 5 Bells neck Road
2. 203 Bank Street
3. Judah Eldredge
4. Request for proposal for Saquatucket Harbor Snack Shack
5. Request for proposal for Cranberry Valley Restaurant

Meggan Eldredge Assistant Town Administrator updated:

5 Bells Neck Road-The RFP has been redeveloped to put it back out to the public for sale of the property and gave dates and timelines.

203 Bank Street-The town has contracted with Clancy Appraisals for this property which will be done in approximately 6 weeks.

Mr. Ballantine asked if the RFP would be done as one site plan. He is concerned about not doing both plans as they had discussed.

Ms. Eldredge will talk to the appraisers about the different scenarios and value of that property. She will bring the information to the Board before the RFP is developed.

Judah Eldredge-There is a survey quote and some direction is needed on the funding source.

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Mr. MacAskill commented that Ms. Coppola was looking for funding. There is not funding at this time. There will be a broad discussion in the future. He also noted that the value of this property has increased almost \$200,000 which he feels is low. He asked if there is a mechanism to get rid of some of the value on the tax lien. The appraisal will be a lot lower than the tax lien.

RFP Saquatucket Harbor-2 responses have been received, evaluated and she gave details of each. After review, the recommendation is for the contract to go to BCAF, LLC DBA Poco NYC.

Mr. Howell commented that is there is something in a packet it needs to say, in opposed to what and gave his reasons.

Ms. Eldredge stated that the proposal from Ashwood was not included in the confidential one because it was not considered to be highly advantageous. They did not put numbers in because everything is negotiable.

Ms. Anderson noted that since they are from NY and an unknown to us, she assumes the references will be called.

Ms. Eldredge has called references and they do live in town so they are not only from town but also have a restaurant in NYC.

Ms. Kavanagh noted that they included information on training and that it was a thorough application.

Mr. Ballantine would also like to see the other for comparisons.

Ms. Eldredge will send it to the Board tomorrow. Also, all RFP results are on the website as well.

Mr. MacAskill commented that the value is second to none and the location is definitely second to none and he expected it to bring a lot more money.

RFP Cranberry Valley Restaurant-Proposal yielded zero bids. It will go back out in the paper this week.

Pete (inaudible) from Ashwood spoke, they had won the bid last year and felt they had done well for themselves and the town and interpreted the RFP to mean the decision would not be based solely on financials. They did not bid on the golf course out of respect for Ron, the present business there.

Ms. Eldredge noted that the golf course is going back out. Regarding the bid, both were highly advantageous, the financials were the difference. She added that Ron is not bidding on the golf course.

## **CONTRACT**

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A. Discussion and possible vote to authorize the Chair to sign the Department of Energy Resources (DOER) Green Communities Division Competitive Grant award - \$160,952

Ms. Anderson moved to vote to approve the contract as presented, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously.

Mr. MacAskill would like to see the two proposals for the Harbor and the bids on the last 2 tenants. The will wait a week to look at this with that information.

### **TOWN ADMINISTRATOR'S REPORT**

Meggan Eldredge Assistant Town Administrator reported that one contract was signed for nets at the golf course and gave details. She gave the monthly report from the Treasurer Collector's Office.

### **SELECTME'S REPORT**

No reports given.

Ms. Anderson moved to adjourn, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously.

Respectfully submitted,

Judith R. Moldstad  
Recording Secretary

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