

Board of Selectmen's Meeting Minutes

April 9, 2013; 5:00 P.M.

Board Members Present: Paul E. Hoyt, Chairman; Douglas A. Taft, Vice-Chairman;
Robert F. Woodward; Bernard N. King, Jr.; Robert J. McHatton, Sr.

1. Call to Order

Chairman Hoyt called the meeting to order at 5:00 P.M.

2. Pledge of Allegiance

The Board recited the "Pledge of Allegiance."

3. Approval of Minutes – March 26, 2013

Motion was made by Selectman King for approval of the amended minutes from the March 26, 2013 Board Meeting (*page 2 item 5- correction to "motion was made by Selectman Woodward, 2nd from Vice-Chairman Taft"*); 2nd from Vice-Chairman Taft. 5 approve/0 oppose

4. Correspondence and Other Pertinent Information

a. Review Dog Control Ordinance – Fines and Penalties

Town Manager Berkowitz provided the Board with a copy of the Dog Control Ordinance and also a copy of the State Statutes relating to dog licenses and late fees.

Bob Barnes voiced concerns regarding the late fee penalty for unlicensed dogs but now understands that the fine is driven by state law; he is now concerned with how the late fee monies are being spent. Town Manager Berkowitz replied that the late fees are posted to the animal control account and at the end of the year the revenue from late fee goes into the general fund to offset the expense of animal control. Chairman Hoyt asked how many dogs are unlicensed at this time. Town Manager Berkowitz replied that the list goes back to the year 2005 and contains approximately 600 unlicensed dogs. Chief Schofield added that the Animal Control Officer is working to provide a report to the Clerk's Office to update those older records. Selectman Woodward asked how residents are notified of the licensing requirements. Town Manager Berkowitz replied that notices are posted at the Town Office, on the Town website and he also reminds the public through his Manager's report. William Barnes stated that in the past, staff made telephone calls to remind dog owners that their license is due to expire and the Town set a precedence by doing so; as a result of the lack of reminder calls, there are many disappointed residents that have to pay late fees. Bob Barnes requested that the Town follow up with unlicensed dog enforcement.

William Barnes complained about the lack of availability of the current Animal Control Officer. Chief Schofield replied that while Kathaleen Quinan is the primary Animal Control Officer, Susan Fielder is also appointed in Bridgton; Ms. Fielder is appointed in other communities as well. Jack Knight is also an appointed Animal Control Officer and is used primarily for wild animal issues. Chief Schofield added that some of the Officers on the Department were certified for animal control but their certification has expired.

Discussion ensued regarding animal control and related expenditures.

Bill Vincent said that when you own a pet, you take on the responsibility of caring for that pet and ensure that they obtain their shots and are properly license.

The Board directed staff to place the list of unlicensed dog owners on the website with a request that owners either license their dogs or notify the Town if the dog is deceased or no longer in Bridgton.

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4. Correspondence and Other Pertinent Information

a. Review Dog Control Ordinance – Fines and Penalties (continued)

The Board agreed that individual notifications will not be made to remind dog owners of the licensing requirements but directed staff to place general reminders on the website and in the newspaper annually.

Town Manager Berkowitz provided Mr. Barnes with the revenue and expenditure report. Chief Schofield will provide a copy of the unlicensed dog report to Vice-Chairman Taft.

5. New Business

a. Permits/Documents Requiring Board Approval

1. Application for License for Incorporated Civic Organization for Special Events or Gatherings; Bridgton Historical Society; Cinco de Mayo on 5/4/2013 at Narramissic Farm

Motion was made by Selectman King for approval of 5.a.1.; 2nd from Selectman Woodward.
5 approve/0 oppose

2. Victualer License and Liquor License Renewal – Black Horse Tavern

Motion was made by Selectman King for approval of 5.a.2.; 2nd from Selectman Woodward.
5 approve/0 oppose

3. Special Amusement Permit – Magic Lantern, LLC (Process after the Public Hearing)

This agenda item was considered after the public hearing.

4. Sewer Commitment 122

Motion was made by Selectman Woodward for approval of 5.a.4.; 2nd from Selectman King.
5 approve/0 oppose

b. Bids, Awards and Other Administrative Recommendations

1. Request by the Bridgton Art Guild for the Use of the Downtown Park for a “Clothesline Art Sale”

Motion was made by Selectman Woodward for approval of 5.b.1.; 2nd from Vice-Chairman Taft.
5 approve/0 oppose

c. Legal Matters

1. Review of the Attorney's Opinion Regarding the Moose Pond Land Trust Fund and any Sale of the Salmon Point Campground Properties

This item was considered later in the meeting (see 7.b.1.).

d. Selectmen's Concerns

- **Selectman Woodward** voiced concerns about a call he received regarding a rental unit in Town where the landlord is not providing heat for the tenant. Town Manager Berkowitz replied that he has been working with the Code Enforcement Officer and Pine Tree Legal on this issue.
- **Selectman McHatton** appreciates all the hard work that the Committee did to create the proposed Fireworks Ordinance but suggested that before seeking voter consideration on the Ordinance, the question should be asked of the voters if they want to ban consumer fireworks but allow for commercial fireworks as approved by the State Fire Marshalls Office.

Chairman Hoyt tabled “Selectmen's Concerns” until after the scheduled 6:00 P.M. hearings.

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9. Hearings: 6:00 P.M.

Public Hearing to Accept Written and Oral Comments on an Application from Magic Lantern, LLC for a Special Amusement Permit (Live Entertainment)

Chairman Hoyt opened the public hearing to accept written and oral comments on an application from Magic Lantern, LLC for a Special Amusement Permit (live entertainment) at 6:05 P.M. There were no public comments. Chairman Hoyt closed the public hearing at 6:05 P.M.

Informational Hearing on Proposed Ordinance Regarding the Possession and Use of Fireworks

Chairman Hoyt opened the informational hearing on the proposed ordinance regarding the possession and use of fireworks at 6:06 P.M. Bill Vincent said that it sounds like the Board directed a committee to prepare a fireworks ordinance and since they did not present an ordinance to ban fireworks; Selectman McHatton does not want to direct that ordinance to the ballot. Selectman McHatton clarified that he believes the voters should decide if they want fireworks or not before voting on an ordinance. William Barnes said that we should not take fireworks away and shut out businesses. Chairman Hoyt closed the hearing at 6:08 P.M.

d. Selectmen's Concerns (continued)

- **Vice-Chairman Taft** reported that there is a group of tires near the power line on Kimball Road and requested that the person responsible have them removed.
- **Vice-Chairman Taft** requested that the Code Enforcement Officer address houses that fall into the junkyard building category.
- **Selectman King** wished that there had been more committee members in attendance at the last workshop to participate in the discussion.
- **Selectman King** received a complaint regarding parking at the Highland Lake boat launch and requested that the Police Department be more vigilant in enforcement.
- **Chairman Hoyt** had no concerns.

e. Other Matters

1. Discussion – Display of Flags on Main Street

Motion was made by Vice-Chairman Taft to display the flags on Main Street for the full season; 2nd from Selectman King. 5 approve/0 oppose

Glenn Zaidman presented a copy of the original “Act to Incorporate the Plantation of Bridgton in the County of Cumberland into a town by the name of Bridgton” from 1794. The Board thanked Mr. Zaidman.

Chairman Hoyt received a request asking when Highland Lake will be lowered. Public Works Director Kidder replied that Highland Lake is lowered annually in the fall.

Chairman Hoyt asked for an update of the Sabbatus Island project. Town Manager Berkowitz replied that the Conservation Department is still reviewing and working on the project.

Town Manager Berkowitz reported that the forestry funds have not been invested in a trust fund. He is working with the town attorney to ensure that the two existing funds are being properly handled before establishing and investing the forestry funds. His intention is to have all the issues resolved by the end of June and will keep the Board updated.

Chairman Hoyt asked for an update regarding the erosion and lagoon dredging at Salmon Point. Public Works Director Kidder replied that the lagoon dredging has not been done as of yet.

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5. New Business

a. Permits/Documents Requiring Board Approval

3. Special Amusement Permit – Magic Lantern, LLC (Process after the Public Hearing)

Motion was made by Selectman Woodward for approval of 5.a.3.; 2nd from Selectman King.
5 approve/0 oppose

6. Treasurer's Warrants

Motion was made by Vice-Chairman Taft for approval of Treasurer's Warrants numbered 102, 103, 104, 105 and 106; 2nd from Selectman Woodward. 5 approve/0 oppose

7. Committee Reports (Information Must be Written and Received the Wednesday Before)

a. Comprehensive Plan Committee

1. Sale of Surplus Land

*[As directed by the Board at their meeting on April 23, 2013,
this item should have been considered under public comments and presentations.]*

10. Public Comments and Presentations

Chapter 9 of the Comprehensive Plan ("Plan") includes a table (11) that lists many of the properties the Town currently owns. As part of their charge, the Comprehensive Plan Committee has updated this table and provided further understanding of this work and their intent. The Committee believes that there is some land that the Town may consider putting up for sale if it does not meet the needs of the municipality. Those needs can include land to support open or preserved space, facilities and services for future needs not yet fully identified. It is not unusual for any community to face this opportunity realizing that one of the outcomes may be enhanced revenues that could be dedicated for specific municipal expenditures. There are, however, several points that should first be considered. Town Manager Berkowitz said that if the Board wants to move forward on this, there is not enough time to do the research necessary for this June town meeting. He said that simply placing a warrant article before the town meeting in June without the research would not be advisable. The earliest he could prepare the research would be for voter consideration in November. The Board directed the Town Manager to add this item to their future issues.

b. Community Development Committee

1. Proposed Language for Non-Binding Question – Sale of Some Salmon Point Property

Chairman Hoyt disclosed that he rents a site at Salmon Point. **Motion** was made by Selectman King to direct Chairman Hoyt to recuse himself due to a conflict of interest; 2nd from Vice-Chairman Taft.
4 approve/0 oppose

Chairman Hoyt turned the meeting over to Vice-Chairman Taft.

Selectman McHatton disclosed that his sister rents a site at Salmon Point. **Motion** was made by Selectman Woodward to allow Selectman McHatton to remain; 2nd from Selectman King. 3 approve/0 oppose

Town Manager Berkowitz acknowledged and reviewed the following legal opinion from Attorney Richard Spencer (Drummond Woodsum) dated April 2, 2013:

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Business; b. Community Development Committee

1. Proposed Language for Non-Binding Question – Sale of Some Salmon Point Property (continued)

DrummondWoodsum
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April 2, 2013

Mitchell Berkowitz
Town Manager
Town of Bridgton
3 Chase Street, Suite 3
Bridgton, ME 04009-1264

RE: Salmon Point Campground

Dear Mitch:

I am writing in response to your question whether the Town of Bridgton may sell the backland at the Salmon Point Campground in view of the fact that that property was purchased with monies from the permanent reserve fund created by Chapter 343 of the Public Laws of 1981, now called the "Moose Pond Land Trust Fund"; and, if so, whether the proceeds of such a sale of backland could be used for general municipal purposes or whether the funds would have to be returned to Moose Pond Land Trust Fund to be used for open space purposes.

You have requested that I provide you and the Board of Selectmen with a preliminary legal opinion based on a review of the 1987 legislation that created the permanent reserve fund and the various votes that have been adopted by the Town since then, without undertaking the legal research that would otherwise be required in order to provide the Town with a more definitive legal opinion.

Accordingly, I have reviewed P.L. 1971, Chapter 122 as amended by P.L. 1981, Chapter 343, and the votes adopted at Bridgton town meetings in October of 1984 and on September 8, 1987 and August 23, 1988. I have also reviewed the Town of Bridgton "Ordinance Concerning Withdrawals from Certain Trust Funds", adopted in 1983, which by its terms applies to withdrawals from the "Moose Pond Land Trust."

Based on an initial review of these documents and votes, it is my conclusion that there is nothing in these documents and votes, or in the general laws of Maine, that would prohibit the sale of the Salmon Point backlands by the Town, provided, however, that a vote of the town meeting would be required in order to authorize the Board of Selectmen to sell that land on behalf of the Town.

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5. New Business; b. Community Development Committee

1. Proposed Language for Non-Binding Question – Sale of Some Salmon Point Property (continued)

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Although the issue is not free from doubt, it is also my opinion that because the purchase of the Salmon Point backlands was originally financed with funds from the permanent reserve fund now known as the Moose Pond Land Trust Fund, the proceeds from the sale of those backlands would be subject to a trust obligation requiring that they be used in accordance with the purposes of the permanent reserve fund established by the 1987 legislation. That legislation required that the funds in the permanent reserve fund be used as follows:

“Principle of the fund for acquisition and development of other public lands of the Town to provide for public access and use; and income of the fund for maintenance of park and recreational property of the Town.”

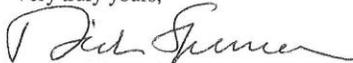
In this regard, I would point out that the Town's current “Ordinance Concerning Withdrawals from Certain Trust Funds” adopted in 1983 now provides that:

“Withdrawals from the . . . Moose Pond Land Trust shall not exceed in any fiscal year four percent (4%) of the average value of the trust over the immediately preceding three year period, the value of each year being as of June 30 of that year as determined by the Board of Selectmen based upon information supplied by the Town auditors.”

Accordingly, if the Town were to sell the backland at Salmon Point, and if the Town then desired to use the proceeds from that sale “for the acquisition and development of other public lands . . . to provide for public access and use”, I would recommend that the “Ordinance Concerning Withdrawals from Certain Trust Funds” be amended to permit the use of the principal of the fund in that manner. Otherwise, I would recommend that the proceeds of the sale be added to the principal of the permanent reserve fund known as the Moose Pond Land Trust Fund and that the proceeds of the sale be managed in accordance with the four percent rule contained in the ordinance.

If you, or the members of the Board of Selectmen, have any questions about this letter, or if you want us to conduct additional research on these issues, please do not hesitate to give me a call.

Very truly yours,



Richard A. Spencer

RAS/kmr

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5. New Business; b. Community Development Committee

1. Proposed Language for Non-Binding Question – Sale of Some Salmon Point Property (continued)

Mike Tarantino noted that he reviewed all the Salmon Point material and has determined that although there are three parcels of land at Salmon Point, only two were purchased with Moose Pond Land Trust Funds.

Corinne Davis voiced concerns regarding the sale. She had voted to purchase the land and urged the Board to think carefully before considering selling as Salmon Point is an asset to the community.

Mark Lopez reported that the proposal is to retain the beach and parking lot.

Selectman McHatton is not in favor of selling Salmon Point.

Wendy Bretton said that the property is very valuable and should be retained for town benefit.

Chuck Renneker reminded the Board that the Committee provided two options, one was to consider operating Salmon Point as a competitive campground to generate additional funding with a potential to generate \$150,000 and the second option was to sell part of the property.

Paul Hoyt said that there are too many unanswered questions to seek voter consideration at this time. Mark Lopez replied that there is plenty of time to educate the public before the vote.

Lengthy discussion ensued.

The following was sent to the Board of Selectmen as the CDC's recommended language for possible warrant on the sale of Salmon Point property: "To authorize the BOS to solicit RFP's for the sale and development of a portion of the Salmon Point Campground. The beach area would be retained by the Town and deed restricted, in perpetuity, against sale or development of the beach area. The minimum sales price for the portion that may be sold shall be \$2,000,000 and the minimum annual tax revenue from the development shall be \$75,000. If these parameters are not satisfied, the Town will have no obligation to sell the property." Town Manager Berkowitz added that in keeping with the Board vote on March 26th, he created a possible second draft of this language for Board consideration as follows: "THIS IS A NON-BINDING REFERENDUM QUESTION: To see if the voters of the Town of Bridgton will authorize the Bridgton Select Board to solicit a Request for Proposal from interested parties who want to purchase and develop the non-beach and parking area of the Town owned campground property at Salmon Point. Any sale price for the non-beach area and parking must at a minimum sell for no less than \$2,000,000 and generate a minimum of \$75,000 in property tax revenues within the first 12 months after the purchase and sale date. Any proposal that does not meet both of these parameters will be cause to reject the proposal. The Select Board retains the right to reject any and all proposals that it deems not to be in the best interest of the Town of Bridgton. Notes: The beach areas and adjacent parking would be retained by the Town and deed restricted, in perpetuity, against all future sale or development of the beach area. All proceeds from the authorized sale of the property will be retained in the Moose Pond Land Trust Fund and any use of the funds will comply with the stipulated uses of the Trust Fund." Town Manager Berkowitz noted that this language requires further modification based on the legal opinion.

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5. New Business; b. **Community Development Committee**

1. **Proposed Language for Non-Binding Question – Sale of Some Salmon Point Property** (continued)

Motion was made by Selectman McHatton to seek a non-binding vote in November; motion fails for lack of a 2nd.

Motion was made by Selectman Woodward to direct the Town Manager's language (after corrected and revised by the Town Attorney) to the ballot in June; 2nd from Selectman King.
3 approve/1 oppose (McHatton opposed)

Town Manager Berkowitz reported that the Salmon Point Campground Report as submitted by the Community Development Committee (CDC) is available on the Town website. The draft report contains information and recommendations to the Board of Selectmen.

c. **Sewer Committee**

1. **Sewer Projects and Funding**

The Board scheduled a workshop meeting with the Wastewater Committee on April 30th at 6:00 P.M. Town Manager Berkowitz will invite MDEP, George Sawyer and a representative from Wright Pierce to the workshop.

The Board received notification from the Wastewater Committee that at their meeting on April 21, 2013, by motions duly made and seconded, recommended the following: 1) Direct staff to refrain from bringing cost calculations or possible field locations to the committee without substantiation (Ray Turner not in favor); 2) Consider re-ordering the memorandum from the town manager to the committee and the Select Board dated February 28th 2013 for #4 to become #2, #2 moves to the third position, and #3 (the Squeaky Clean) is removed from the memorandum (all were in favor); and 3) recommend provisional approval of 24 gallons per day usage at the property addressed at 18 Depot Street (Mark Hatch abstained). These issues will be discussed at the workshop session on April 30th.

Selectman McHatton thanked Glen Zaidman and Chuck Renneker for creating the easy to use and understandable sewer spreadsheet.

d. **Recycling Committee**

1. **Rewards Program for Recycling at the Transfer Station**

Recycling Committee Member Heather Rorer reported that the Committee continues to review various aspects of the town's recycling program in an effort to encourage more recycling. Their goal is to increase the Town's recycling rate to 50% from the current 22%. The Committee requested that the Board support this effort through a rewards program called Recycling Bucks. At random times during the course of a month, the employees at the Station will observe and recognize a person who is making a consistent effort to recycle. The recognition will be that they receive a few Recycling Bucks on the spot. The recipient may use the Bucks to purchase items in the R2R Retail store but may not use them anywhere else nor are they redeemable for cash. The program is expected to issue about \$25 of Bucks per month for a yearly cost of about \$300. **Motion** was made by Selectman King for approval of the Rewards Program; 2nd from Selectman Woodward.
5 approve/0 oppose

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5. New Business; d. Recycling Committee (continued)

2. Proposed Solid Waste Ordinance Amendments

Motion was made by Vice-Chairman Taft to table review of the proposed Solid Waste Ordinance amendments item until July 9th; 2nd from Selectman King. 5 approve/0 oppose

The Recycling Committee requested that their Committee charge be amended to include review of the contract with Ecomaine and authorization to explore alternatives.

Motion was made by Selectman Woodward to notify Ecomaine that Bridgton is considering terminating its membership as of June 30, 2014; 2nd from Vice-Chairman Taft. 5 approve/0 oppose

e. Investment Committee; no report

f. Other Committees; no report

8. SAD #61

Town Manager Berkowitz reported that the Superintendent will be present at the meeting on April 23rd.

9. Hearings (*the hearings were conducted earlier in the meeting*)

10. Public Comments and Presentations

a. Non-Agenda Items

Glen Zaidman noted that Tom McCarthy has been attending the Sewer Committee meetings and requested that the Manager talk with the engineers about possibly removing the dams in Stevens Brook.

b. Agenda Items; There was no public comment.

11. Old Business & Select Board Discussions

a. Departmental Budget Review and Information

- **Public Works;** The Board reviewed the Public Works Department budget. Public Works Director Kidder responded to several questions asked by the Board.
- **Police;** The Board reviewed the Police Department budget. Police Chief Kevin Schofield responded to several questions asked by the Board.
- **Fire;** The Board reviewed the Fire Department budget. Assistant Chief Todd Perreault responded to several questions asked by the Board. **Motion** was made by Selectman Woodward to table discussion of the salary line item until the next meeting; 2nd from Selectman King. 5 approve/0 oppose
- **Recreation;** The Board reviewed the Recreation Department budget. Recreation Director Tom Tash responded to several questions asked by the Board.
- **Transfer Station;** The Board reviewed the Transfer Station Department budget. The Board reduced the Transfer Station budget by \$11,970 by removing the additional hours for part time employment and related FICA expenses.

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11. Old Business & Select Board Discussions

a. Departmental Budget Review and Information (continued)

- **General Government Fund;** The Board reviewed the General Fund department. Town Manager Berkowitz responded to several questions asked by the Board.
- **Economic Development;** The Board reviewed the Economic Development Department budget. Economic Development Director Anne Krieg responded to several questions asked by the Board. **Motion** was made by Selectman King to table discussion of the Economic Development Corporation until April 23rd and invite Lee Eastman (or a representative) to attend; 2nd from Vice-Chairman Taft. 4 approve/1 oppose (Hoyt opposed). The Board opted to hold a workshop session with the BECD on May 9th at 1:00 P.M. **Motion** was made by Selectman King to withdraw the motion to table discussion of the Economic Development Corporation; 2nd from Vice-Chairman Taft. 5 approve/0 oppose

Selectman Woodward excused himself from the meeting at 9:30 P.M.

b. Discussion of the Ecomaine Contract Waste Handling Agreement

This item was addressed earlier in the meeting.

c. Action of Tabled Item; Sewer Allocation for the Tap Room on Depot Street

Motion was made by Selectman McHatton for approval of the sewer allocation for the "Tap Room" located at 18 Depot Street; 2nd from Selectman King. 4 approve/0 oppose

Lakes Region Television

John Likshis, representing LRTV, was present. He reported that LRTV has been streaming programs over the internet live making the programs available to anyone, anywhere. Along with streaming, it is captured on line and makes it possible to watch on demand. There are currently two channels and are streaming only one live now; the plan is to stream both channels. There are five people serving LRTV, four are part time only. LRTV has both Facebook and Twitter accounts that are updated on a regular basis. Mr. Likshis provided additional information regarding programming, technology and expanding services and costs. The Board thanked Mr. Likshis.

d. Update Report on Volunteer/Employee Recognition B-B-Q

The Board opted to hold a barbeque at Camp Wildwood on June 4th from 3:00 P.M. until 6:00 P.M. to recognize volunteers and employees. It was determined that if Camp Wildwood is unable to host the event due to a conflict, the recognition will be held at the Community Center. The Board agreed to close the offices at 3:00 P.M. **Motion** was made by Vice-Chairman Taft to authorize the expense (approximately \$750) from the contingency account; 2nd from Selectman King. 4 approve/0 oppose

e. Update on Budget 2014

Town Manager Berkowitz will provide the updated budget numbers to the Board via email.

f. Discuss Proposed Revisions – Purchasing Policy

Motion was made by Vice-Chairman Taft to table discussion of the Purchasing Policy until the next meeting; 2nd from Selectman King. 4 approve/0 oppose

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12. Agenda for the Next Board of Selectmen's Meeting/Workshops
The Board reviewed the preliminary agendas for the next meetings.

13. Executive Session – Per Title 1 MRSA 13 Subsection 405.6.A – Personnel Matters; Specifically to Interview an Applicant for the Investment Committee and Other Personnel Matters
Motion was made by Selectman King to enter into executive session per MRSA Title 1, Chapter 13, and Section 405.6.A for discussion of personnel matters; 2nd from Vice-Chairman Taft. 4 approve/0 oppose

Motion was made by Vice-Chairman Taft to come out of executive session at 10:30 P.M.; 2nd from Selectman King. 4 approve/0 oppose

14. Possible Committee Appointment
Motion was made by Selectman King to appoint Stan Cohen to the Investment Committee; 2nd from Vice-Chairman Taft. 4 approve/0 oppose

The Board agreed to discuss the proposed Fireworks Ordinance at their next meeting.

15. Adjourn
Chairman Hoyt adjourned the meeting at 10:45 P.M.

Respectfully submitted,

Laurie L. Chadbourne
Town Clerk