

TOWN OF WEBSTER
Office of Selectmen
945 Battle Street/Rte. 127
Webster, NH 03303

6:31 PM Selectmen's Meeting – June 25, 2012

Present: Selectman Bruce Johnson and Selectman Roy Fanjoy. Chairman George Cummings was out-of-Town.

In the absence of Chairman Cummings, he requested that Selectman Johnson chair the meeting if Selectman Fanjoy had no objection, which he did not.

The Board signed the check manifests.

Fire Chief Colin Colby advised the Board of the following:

- Requested the Board to sign PO #12 for the Fire Department to Huntress Uniforms for nickel and gold badges in the amount of \$996.60. He apologized for the fact that the purchase was made prior to the signing of the purchase order, advising that there was a communication breakdown in that the badges were ordered and picked up by a Fire Department Member who had put it on a credit card and needed to be reimbursed. He will make it known at the next business meeting of the Fire Department this week that purchase orders must first be obtained and signed for anything over \$250 prior to the purchase.
- There have been several medical calls since the last meeting and a two-alarm brush fire. There will be bills for reimbursement from some of the surrounding towns for this brush fire.
- Currently the Department is at 74 calls.
- He attended the Capital Area Meeting last Thursday. A printout was provided for a comparison to last year's calls, which showed 80 calls at the end of June for Webster, so the numbers are down slightly this year.
- Rob Wolinski has taken on the role of Deputy Fire Chief in the Department, filling Adam Pouliot's position.
- About 20 people attended the auto extraction/stabilization demonstration on Pleasant Street on June 16th. Five different vehicles were worked on, with one remaining on site to be burned for at a fire training tonight.
- The renewal application has been received for Fire Department Members to partake in the NH Retirement System, as has been done for the last several years, at a cost of \$6 per member. This is a benefit in the event that a member was permanently disabled or an injury resulted in death.

6:35 PM Selectman Fanjoy made a motion that the meeting be moved to the dining area, to which Selectman Johnson agreed, as there was a large number of attendees. Acting Chairman Johnson adjourned the meeting for a few minutes for the move.

6:37 PM Acting Chairman Johnson reconvened the meeting.

The Board signed the following for Administrative Assistant Judith Jones:

- Selectman Fanjoy made a motion to accept the Selectmen's Minutes of June 11, 2012 as written; seconded by Acting Chairman Johnson and approved.
- Abatement denial for Unitil Energy Systems, Inc. – MapUTIL-1.
- PO #10 to Corriveau-Routhier, Inc. for 128 sq. ft. of tile and the needed adhesive material for a portion of the hallway and in front of the Town Clerk's counter in the amount of \$420.61.
- PO #11 to Anton Wilson for installation of the 128 sq. ft. of tile in the Town Hall in an amount not to exceed \$400.
- A 90-day Permit for a Travel Trailer for Paul Silberman – Map 3-103.
- The Forest Fire Bill to the Town of Hill for reimbursement for a forest fire bill from last April 4th.
- A sick leave slip for Mrs. Jones.

Police Chief Robert Dupuis advised the Board of the following:

- There were 49 calls for service over the last two weeks, including a couple of thefts. Also, there was an attempt to commit fraud where a citizen was selling something on e-bay and was contacted by e-mail saying a check for \$2,300 from a bank would be sent overnight for an item with an asking price of \$200. The e-mail told her to keep some money for herself for her troubles and saying that someone would pick up the item and when they did, they were to get a bank check from the seller which was to be sent to an address provided by the person picking up the item. Chief Dupuis advised that there have been several such incidents in Town. The person selling the item contacted the Police about the incident. Chief Dupuis advised

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R. E. Fanjoy

that the check for \$2,300 was drawn on a legitimate bank in North Dakota, but the check was not legitimate. He sent the person an e-mail asking if he/she would like to discuss the incident to give him a call, but has not heard from him/her to date.

- A letter was received from the Department of Safety, Division of State Police Sex Offender Registration indicating that there had been an overpayment of \$140 over the last few years to the Webster Police Department and this amount will be deducted from the Department's reimbursement until it is paid. The State gets \$50 a year and the Department receives a portion of the registration fees annually, around \$5 to \$10 per registration for what the Department does. The Chief has been unable to find an error in the Department's records. The State indicated that it could possibly be an administrative error on their part, to which Chief Dupuis suggested that they "eat it then and not take it from the towns", but they did not seem to agree.
- He advised that he will be returning about \$1,600 that has been generated from detail duty from the Army Corps of Engineers for patrols in the Flood Control Area or about \$400 per month during the detail season.
- Saturday night Officer Daniel Shapiro called him at home to advise of a possible electrical burning odor in the 2010 Crown Vic cruiser. He told him to park the car and when he did there was an issue with the windshield wipers. The Chief took it to Hillsboro Ford today and they found that there was a blown windshield wiper motor, which was covered under warranty. The car will be back in service tomorrow. As there have been issues with this car, he recommended that an extended warranty be purchased and will have the information for the cost of this tomorrow.
- He brought the Emergency Operation Plan, which Acting Chairman Johnson will look at later. Acting Chairman Jonson advised that the Emergency Management Director position will be discussed later this evening.
- The Chief requested non-public session pursuant to RSA 91-A:3 II (a), which will be held later in the meeting.

Sue Roberts advised that Road Agent Emmett Bean was rushed to the hospital this morning for an appendix operation and was reportedly doing fine. He did want her to report that he had been working on Deer Meadow Road and that he would be grading some roads.

Acting Chairman Johnson introduced Tom Baye, Life Safety Code Enforcement Officer for Warner. The Town is currently looking for someone to perform the duties done by Mr. Pouliot, who has recently moved. Tonight was not an interview as such, but a gathering of information from both parties, and will be discussed further at other Selectmen's Meetings when all three Selectmen are present. Mr. Baye has been doing this for Warner for almost three years. He provided a resume outlining his experience to the Board. Acting Chairman Johnson advised that Mr. Baye recently completed an inspection needed on Battle Street last week, which worked out well. He then gave a copy of the draft of the "Life Safety Code Enforcement Officer Job Description" which he had compiled from the outline of duties provided by Mr. Pouliot before he left. Acting Chairman Johnson requested that Mr. Baye review it and make recommendations for changes, as he had noted that things were missing. Selectman Fanjoy asked Mr. Baye if he worked for any other town at this time, which he does not. He then asked him if it would be a problem working for both towns, and asked Mr. Baye if it would be a problem working in Webster. Mr. Baye said no and that in fact, it was their Secretary who gave him the information. Acting Chairman Johnson advised him that they would be looking forward to meeting with him again and reviewing his suggestions. Mr. Baye had been given a copy of the building application for review. He was given the office e-mails so that he could e-mail his suggestions for the Board's review prior to the next meeting with him. Acting Chairman Johnson inquired as to whether he would be willing to do those inspections needed by the Town in the interim, which he is willing to do. He asked about invoicing the Town and was advised that he could e-mail any invoices to Wendy Pinkham for payment. Outstanding inspections were discussed, though nothing was scheduled at this time. He was advised that those building applications that have been issued were available for review. Robert Lake inquired as to what the inspections entailed and how much it would cost the Town. Acting Chairman Johnson then read the draft of duties mentioned earlier. Mr. Lake then asked if we had a Building Inspector, to which Acting Chairman Johnson advised that it was currently the Selectmen overseeing the process. Mr. Lake asked how it was paid for, if it were through the Impact Fee. Mrs. Jones advised that it was not part of the Impact Fee, but was paid for through the cost of the Building Permit, which is \$600. There was discussion on the process and procedure. Mr. Lake asked why a Fire Department Member was not doing these inspections as Mr. Pouliot was on the Fire Department. Selectman Fanjoy said that they may not be qualified. Mr. Lake said that Selectman Fanjoy was qualified, but he replied that he was not on the Fire Department any longer, further saying that he would prefer that someone outside be the inspector. Mr. Lake asked the Board to look into having someone on the Fire Department volunteer to do the inspections, which they could do. He was then informed that Mr. Pouliot was paid for his services following a schedule that was on file.

Fred Reagan, representing Merrimack Valley School District, provided the Board with maps of the School property and the Town Soccer Field. He was in hopes of going over the maps with Road Agent Bean to designate those areas plowed by the Town and those areas mowed by the School District. The Board asked Sue Roberts to help review the maps, along with Brenda Silver as Parks Chairman and Robert Lake as the contractor for the Town Hall to help designate the areas where the septic system runs through the School property. Mr. Reagan provided the Board with a copy of a response received via e-mail from Primex relative to the Memorandum of Understanding and insurance, indicating that Primex did not have any issues, though they recommending that the District have their counsel review it, which Mr. Reagan indicating was being done. Mr. Lake indicated that he could provide a plan of the Town's septic

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R. E. Fanjoy

system. Mr. Reagan proposed to mark out the areas, clean up the maps and get new copies for all to review and to come to the Selectmen's Meeting on July 9th at 7:00 pm, to which all agreed.

Acting Chairman Johnson advised that the next item on the agenda came in as a request from Sue Roberts for a non-public session and the comment that she would be accompanied by her Attorney. Therefore, he advised that the Board would also be represented by Town Counsel James O'Shaughnessy, who then joined the Board at the table. Acting Chairman Johnson advised that the purpose of counsel representation was to assure that Ms. Roberts's comments and concerns were taken seriously and correctly. He then turned to Ms. Roberts to continue:

Ms. Robert advised that first of all the subject had to be non-public, saying it was not really her time, but that she had been put in the position of being the spokesperson for the group called Webster Residents for Responsible Government. She continued by saying that she had something to present to the Board that was a personnel issue requiring a non-public session.

Acting Chairman Johnson advised that the burden to determine whether to go into non-public lies with the Board, asking her to give more explanation. Also the decision to seal or not to seal the minutes was also a Selectmen's decision.

At this point Attorney Jason Major introduced himself as her representative, indicating that this issue was definitely a non-public matter which could involve a Town Employee. Acting Chairman Johnson again asked for more information, saying that if the Board was asked to go into non-public pursuant to RSA 91-A:3 II (a), which is "The dismissal, promotion, or compensation of any public employee..." saying that that was not being discussed, but indicated that it might be the "...disciplining of such employee,..." and "...the investigation of any charges..." saying that there were no charges at this moment. Attorney Major said that it might lead to charges, though unknown at this time, but could potentially embarrass the employee if it were out in public, strongly recommending that for safety's sake it should be kept confidential.

Acting Chairman Johnson asked if it would then be better to go into non-public session under (c) "Matters which, if discussed in public, would likely affect adversely the reputation of any person,...". Attorney Major answered that he thought it could be both.

Acting Chairman Johnson asked Attorney O'Shaughnessy if he needed more information. He replied that he thought it was the Selectmen's job to hear complaints in general about the operations of Town government, indicating that you, addressing Ms. Roberts and Attorney Major, have a right to bring those complaints forward, saying that the Board also has a right to consider complaints about individual personnel that are employees of the Town. He continued by saying that obviously if it involves a complaint or an allegation that someone that works for the Town has done something wrong, then he believed that the Selectmen would be happy to take it in as a complaint. He said that there was a process for filing a complaint, saying he thought the Selectmen would be happy to consider the complaint, but didn't think that it needed to be done in a public meeting, recommending that they just file the complaint and that the Board would take it under consideration.

Attorney Major said that they could file what they had, but had concerns that it be kept confidential until the Board was able to make a decision regarding what they wanted to do. However, they would like an opportunity to explain why they put it together prior to submitting the complaint, offering to do that in the form of a letter if the Board so desired.

Attorney O'Shaughnessy advised that any documents submitted in public or non-public had to go through a balancing test before they could be sealed. After they were sealed, the public, or if a newspaper wanted to see them, they would have to file a request under RSA 91-A, at which point the Board would have to consider whether they can or will unseal the records, which could end in possible litigation. He said that he did not think that the Town would want to do that but would want to take the complaint under consideration; to do an independent investigation and to handle it that way. He said that he thought that would be a cleaner way to do this.

Attorney Major again said that their interest is not to embarrass the employee but to give the employee a fair shake. Attorney O'Shaughnessy said that to mention that it was whatever employee of the Town and that there was a complaint against them and that the Selectmen were going to have to investigate; that could constitute defamation. They don't want names out there unless there is a reason to do so and they have to be really careful and talk vaguely about things. They don't want the person to have a reason to file a complaint that the law was broken. His recommendation was to file a complaint and have the Selectmen take it under consideration.

Attorney Major said that he would leave it up to the Board as to how to receive the complaint, saying he didn't know if the Board had a process in place.

Acting Chairman Johnson asked Selectman Fanjoy if they should ask which Department employee was involved.

Attorney O'Shaughnessy questioned those in attendance as to whether they wanted to participate in the non-public session or if they were expecting to participate. The consensus of the noise and response indicated no.

BOS Initials:

B. G. Johnson

R. E. Fanjoy

Acting Chairman Johnson indicated that it would be one representative of the group naming Ms. Roberts and Attorney Major.

Attorney O'Shaughnessy recommended that the Board go into non-public session to receive the complaint and to hear a very general explanation as to what it was.

As the noise level rose, Acting Chairman Johnson asked those attending to be respectful and be quiet. Selectman Fanjoy recommended a separate meeting specifically to review the complaint when the third Selectman was present, when a decision could be made to seal or not seal the minutes. He noted that there was a potential that the next meeting could be open to the public. Acting Chairman Johnson said that the reason he asked which Department it involved was that if it involved the Chief of Police then he would be part of the non-public session, if it did not involve the Chief of Police then there was a Police Policy in place where all complaints regarding the Police Department go to the Police Chief, and he wanted to follow that policy.

Attorney O'Shaughnessy said that as long as the Board was receiving the complaint then they could in turn delegate the investigation to go to the Police Chief. Acting Chairman Johnson clarified that if the non-public complaint came to the Board that they could then decide to give it directly to the Police Chief.

Attorney O'Shaughnessy said that they were just talking about keeping the information from violating the right-to-know law and to keep the public from potentially damaging someone's reputation.

Selectman Fanjoy then said that this issue would be under Article II (c). Attorney O'Shaughnessy recommended that it be under both (a) and (c) to at least cover themselves. Acting Chairman Johnson asked if the Chief of Police should be included, to which Attorney O'Shaughnessy said yes.

7:24 PM Acting Chairman Johnson then made the motion to go into non-public session pursuant to RSA 91-A:3, II (a) and (c); (a) would be for personnel issues and (c) is for the possible damage to someone's reputation; seconded by Selectman Fanjoy. Roll call: Acting Chairman Johnson – yes and Selectman Fanjoy – yes. Attending also will be Sue Roberts, Attorney Major, Attorney O'Shaughnessy and Police Chief Dupuis.

8:22 PM Acting Chairman Johnson reconvened the meeting. He made a motion to seal the minutes pursuant to RSA 91-A:3, III "To take into consideration and act upon a complaint regarding town personnel on the basis that divulgence of the information would likely affect adversely the reputation of that person."; seconded by Selectman Fanjoy. Roll call: Acting Chairman Johnson – yes and Selectman Fanjoy – yes.

Immediately following Acting Chairman Johnson advised that while Town Counsel was here, the Board would go back into non-public session as the Police Chief had requested earlier this evening pursuant to RSA 91-A:3 II (a) for personnel. He then made the motion to go into non-public session pursuant to RSA 91-A:3 II (a) personnel; seconded by Selectman Fanjoy. Roll call: Acting Chairman Johnson – yes and Selectman Fanjoy – yes. Also asked to attend were Police Chief Dupuis and Attorney O'Shaughnessy.

8:38 PM Acting Chairman Johnson reconvened the meeting. He made a motion to seal the minutes pursuant to RSA 91-A:3 III; seconded by Selectman Fanjoy. Roll call: Acting Chairman Johnson – yes and Selectman Fanjoy yes.

Acting Chairman Johnson continued with the agenda. The Board reviewed the two estimates provided by Wayne Morse to install a waterless urinal at the Town Hall. The cost difference was based on which urinal was installed, with Mr. Morse recommended the lower price of \$916.00. Acting Chairman Johnson recommended that the funds come from the Capital Reserve for Town Hall. Mr. Lake asked if the Board had looked into the use of a waterless urinal as he had heard that they were not effective, to which each Board Member reportedly had heard positive responses regarding the use of this type of unit. Mr. Lake was concerned about the difficulty of daily maintenance of the unit, which would be done by the custodian. Selectman Fanjoy then made a motion to approve the proposed \$916.00 for the cost and installation of a waterless urinal; seconded by Acting Chairman Johnson. A purchase order will be prepared for the next meeting. Selectman Fanjoy made a motion to take the \$916.00 from the Town Hall Capital Reserve established in 1991 for this purpose; seconded by Acting Chairman Johnson and approved. At this time Mrs. Jones reminded the Board that she needed a vote to take the expenditure for the tile and installation of the tile at the Town Hall from the Capital Reserve. Selectman Fanjoy made a motion to take \$420.61 for the tile and \$400 for the installation of the tile at the Town Hall out of the Town Hall Capital Reserve established in 1991 for this purpose; seconded by Acting Chairman Johnson and approved.

Acting Chairman Johnson advised that the Board will meet at 5:00 pm on July 9th for the mandatory walk-through as stated in the RFP for the replacement of the carpet at the Town Hall. This meeting will be posted and the regularly scheduled Selectmen's Meeting will begin at 6:30 pm. He noted that several people have expressed interest in the project.

BOS Initials:

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R. E. Fanjoy

Plans are to replace the Mock Forest Plaque on the rock across the river from the Park within the next few weeks according to Acting Chairman Johnson.

Emergency Management Director "Duties & Responsibilities" were delivered by Nancy St. Laurent, Field Representative for Homeland Security & Emergency Management. The Board will discuss this at the next meeting when Chairman George Cummings and Fire Chief Colby will be available. Police Chief Dupuis brought the local Emergency Operations Plan with him tonight. He inquired as to whether Ms. St. Laurent would attend the next meeting. Mrs. Jones said that she could be invited but had not been requested to do so at this time. Ms. St. Laurent had also offered to talk with anyone interested in the EMD position. It was noted that Ms. St. Laurent had advised that the Chairman of the Board held this position until someone was appointed. Ms. St. Laurent is the one that recommended updating the local EOP plan, which Chief Dupuis noted was done in 2007, even though there is no Statue mandating the update. She had advised that FEMA and other grant applications looked favorably on this local plan being updated. Chief Dupuis will keep the plan in his office at this time.

Selectman Fanjoy will contact Attorney Matt Serge regarding the site visit expected to be done in Davisville around August 1st. This will be discussed on July 9th. Mrs. Jones will e-mail Attorney Serge that he Selectman Fanjoy will be contacting him soon.

The Board reviewed the revised "Agenda Topics Policy." After a short discussion, Selectman Fanjoy made a motion to accept the "Agenda Topics Policy"; seconded by Acting Chairman Johnson and approved. Tom Mullins inquired as to when it would be ready for public inspection. Acting Chairman Johnson offered to read it out loud. Mr. Mullins requested a copy instead, which was then given to him.

As Selectman Fanjoy had inquired at the last Selectmen's meeting about elections procedures relative to where those campaigning could or should be asked to campaign, suggesting that across the street would be appropriate, Acting Chairman Johnson reviewed LGC "Moderator's Manual" to provide a response tonight. He then read excerpts regarding distributing campaign materials indicating that "...the moderator must set up an outdoor area of at least 10 feet wide and extending out from the entrance of the polling place building as far as the moderator deems appropriate where electioneering and distributing of campaigning literature will be prohibited." This is under RSA 659:43. He advised that it does talk about local electioneering ordinances and continued by saying that "Towns may enact ordinances or bylaws concerning electioneering that are more stringent than State Law, except that the display of material attached to motor vehicles or wholly or on private property can be regulated. Such regulations must be provided to the Town Clerk immediately so as to be made available to candidates. They must also be posted at the polling place at least 72 hours prior to the election." He advised that this was under RSA 31:41-c. He noted that LGC's recommendation was that towns be cautious about enacting any local electioneering ordinance, especially when it regulates the polling place itself, continuing to say that any proposed local ordinance should be discussed with Town Attorney first as it will involve complex first amendment issues, saying that candidates could file lawsuits over this issue or simply ignore the local ordinance if they believe that their first amendment rights are at stake, ending by saying that it is possible but not recommended. Robert Pearson questioned the purpose of this discussion. Selectman Fanjoy explained that the question was raised at the last meeting explaining that he had inquired about possibly keeping candidates away from the building, etc., which Acting Chairman Johnson followed up on. Mr. Pearson questioned whether the Board was considering adopting a Town Policy regarding this, saying that he had issues with this subject back in the 80's, indicating that he used to check on what was going on outside the building when he was Moderator. He did not think that there was any need to get involved with a policy, but would like to be kept informed if the Board was considering a policy. Selectman Fanjoy advised that there was no plan for a policy, to which Acting Chairman Johnson agreed. Mr. Pearson thought that the Board had left the issue open ended. Acting Chairman Johnson said that this discussion was just a sharing of information. Mr. Lake asked how many people had inquired about this issue, with Selectman Fanjoy saying that several people had asked questions about the election procedures that were just discussed here, indicating that if the Town wanted to put this issue on the Warrant, it would be up to the Town.

Mrs. Jones advised that no action had taken place regarding the non-public session of 6/4/12 as had been expected. Acting Chairman Johnson requested that this be visited again at the next meeting, noting that it would then require another non-public session.

JP Pest Services will send Brandon on 6/26/12 between 3-5 pm for a re-application of pesticides as there has been a recent issue with ants in the stairwell of the Town Hall. This will be done at no extra cost to the Town.

The Board authorized Wendy Pinkham to sign a contract for propane for the heating season of 9/1/12 to 5/31/13 when a decision is made as to which vendor to use. Mrs. Pinkham had e-mailed the Board with the quotes from Huckleberry of Boscawen

BOS Initials:

B. G. Johnson

R. E. Fanjoy

and Rymes Propane, the current provider. She had been informed that if we use Huckleberry, that they would swap out the propane tanks at the Town Hall and the Public Safety Building at no cost. Acting Chairman Johnson expressed concern regarding the recommendation from Huckleberry to put a smaller tank at the Town Hall than the current 1,000 gallon tank as the Town

Hall could possibly be used in an emergency shelter. David Klumb recommended that the Town purchase the tanks, which would then allow the Town to purchase from any supplier. Acting Chairman Johnson inquired about the cost to purchase the tanks. Mrs. Jones said that she thought it was \$1,800 to \$2,800 each 1,000 gallon tank. Acting Chairman Johnson said that there no money in this year's budget for this purchase. Ellen Kontinos-Cilley inquired as to who would pay for repairs if the Town owned the tanks, to which Mr. Klumb advised that it would be the owner of the tank. Mr. Mullins felt purchasing the tanks was an advantage as then the Town could use any provider they desired. Barbara Corliss inquired about what the price difference of the propane would be if the tanks were owned. Acting Chairman Johnson read the current prices proposed: Rymes – \$1.74 and Huckleberry – \$1.66. Ms. Corliss wondered how the cost to own the tanks would be off-set from the cost of the propane. Mr. Mullins indicated that as he owned his own tanks, then he paid less per gallon, saying that if the company owned the tanks they were going to be compensated somehow. The Board agreed that any purchase of the tanks would have to be considered in next year's budget. There was further discussion on the tanks and switching them out. Selectman Fanjoy made the motion that if Huckleberry will switch out the Town Hall tank with the same equivalent capacity of 1,000 gallons, then the Town would go with them for the next heating season; seconded by Acting Chairman Johnson and approved. If not, then this issue will be on the next agenda.

Glen Creighton requested via e-mail that the Webster Church be linked to the Town's Website. Acting Chairman Johnson made a motion to add the Church to the website; seconded by Selectman Fanjoy and approved. Mrs. Jones will do this.

Mrs. Corliss requested that all future meetings be held in the dining area and that it be equipped with a sound system. Acting Chairman Johnson explained that the sound system used upstairs was hardwired and not portable. She requested that there be use of a sound system of some kind. Selectman Fanjoy recommended that the Board take this request under advisement.

Selectman Fanjoy read a letter received from Planning Board Chairman Jere Buckley regarding a possible violation of the Zoning Ordinance under Article V regarding the setback of a shed abutting the property of David Collins in the Pillsbury Lake District. Chairman Buckley requested that the Board, as the enforcing agents of the Ordinance, advise the homeowner of the need to correct the violation. There was discussion on which property was being referred to. It was then realized that the property was being rented and agreed that it was the owner, not the renter that would be notified. Selectman Fanjoy made a motion to send the homeowner a letter regarding the violation of the setbacks and give them 90 days to correct the issue; seconded by Acting Chairman Johnson and approved. Mrs. Jones will write the letter and e-mail it to the Board for their approval.

Acting Chairman Johnson opened the meeting to those in the audience wishing to speak. No one responded.

9:15 pm Selectman Fanjoy made a motion to adjourn the meeting; seconded by Selectman Johnson and approved.

Bruce G. Johnson, Acting Chairman
BOS/jj

Roy E. Fanjoy

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