TOWN OF WARNER – PLANNING BOARD
Meeting Minutes
April 4, 2016 7:00 PM
Warner Town Hall, Lower Level

Members Present: Vice Chairman Ben Frost, Don Hall, Barbara Annis, Ken Milender, Selectman's Representative John Dabuliewicz, Alternates Ben Inman, James Gaffney
Late Arrivals: Alternate Peter Anderson
Members Absent: Aedan Sherman
Land Use Secretary: Lois Lord

1. OPEN MEETING
Vice Chairman Frost opened the meeting at 7:00 p.m. He stated that before roll call he wanted to note that Rick Davies term was up and he opted not to seek reappointment to the Planning Board, effective March 31st.

2. ROLL CALL
Roll call was taken with two members absent, and seven present. It was noted that Peter Anderson was at another meeting and would be arriving late. Ben Frost asked Ben Inman to sit in for Aedan Sherman.

3. APPROVAL OF MEETING MINUTES
Vice Chair Frost brought forth the meeting minutes of 3/7/16 for the Planning Boards approval. The wording of one sentence was reviewed, discussed by the board and a rewording agreed on. A **MOTION** to approve the minutes as amended was made by Barbara Annis, seconded by Ken Milender. Selectman Dabuliewicz abstained from the vote as he was not present at the March 7th meeting. A voice vote was taken with a unanimous yes.

4. OLD BUSINESS
Fire Department Purchase of Land Letter from Board of Selectmen – It was noted this letter is included in the meeting minutes from March 7th. Vice Chair Frost gave a synopsis of the letter content and said presumably, this would be pursuant to RSA 41-14a and there was some discussion at the March 16th Board of Selectmen meeting.

Selectman Dabuliewicz said the question at that meeting was mainly if RSA 41-14a applied. What happened at that meeting was the concurrence of the Chairman then, Rick Davies, with the Board of Selectmen that it was not necessary to go through the process of 41-14a as they were authorized at the Town Meeting to purchase the land. Selectman Dabuliewicz stated that based on advice from town legal counsel, it was determined in order to purchase this lot it was not necessary to go through that RSA process.

Vice Chair Frost reiterated that to be clear, the Statute in question RSA 41-14a authorizes Town Meeting to authorize the Board of Selectmen to purchase property. Selectman Dabuliewicz noted that prior to Town Meeting the 2015 Town Meeting established a capital reserve fund and gave the Selectmen authority to act as agents to expend that fund to purchase a fire station site. Ben asked if the Board of Selectmen has withdrawn the request made in the letter being discussed and Selectman Dabuliewicz replied he thought it was made moot by virtue of their actions.

Ben stated in that case he felt there was no action or review that needed to be taken by the board tonight on this matter. At such time as the Selectmen and whatever committee is assigned to the task creates a plan for the development of the site, that will come before this board for an advisory review.

TAC Recap from Barbara – Barbara stated a meeting was held on March 4th in Bow with 16 in attendance. The main speaker was supposed to be Bill Watson from NH DOT; however Dean Williams spoke in his place. Concord is in process of doing a pedestrian Master Plan for walking and wheelchairs. The Rural Road Surface Management System (RSMS) was discussed. Warner has this on a computer at the DPW and it is a database of roads in town and all of the work/maintenance that has been done on them. The information is updated by Tim Allen. There is a new RSMS that UNH is working on that the DOT is interested in using.

Barbara reported that Regional Traffic Count is in process, CNHRPC did 200 counts last year. Concord is doing

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the second part of their main street project. There is a new funding called Fixing Americans Surface Transportation (FAST) which is federally funded. NH is 49th of 50th in line to receive any funding.

Locally, the only town that reported in was Epsom who is having a 250 senior unit complex being built which will impact their traffic pattern.

Bank Account Use Issue – Vice Chair Frost noted the meeting packets have a series of emails regarding at least one instance in which the Planning Boards bank account for escrow was used for a short term transfer of money. The question is if this is an appropriate use of this account that was established specifically for Planning Board Development Escrow.

Barbara stated what bothers her is that someone in Latvia has the account number and can arbitrarily put money in when he wants to. James Gaffney questioned if the person in Latvia would be able to take funds out as well and it was clarified he would not be able to legally do so. Vice Chair Frost noted it troubles him that the account is being used for these purposes and makes it difficult for us to keep track of it if things are coming and going without our knowledge.

James asked if there was a way to restrict the account and Ben replied that the signatories on the account include the town treasurer so if they are acting under the direction of someone else…we could create it as a checking account that requires two signatures one of which must be a Planning Board member, most likely the Chair. He said he used to be a town administrator and has never come across this; you just don't do it and and it does not look good in the audit trail. Vice Chair Frost said there is a note in the documentation for the auditor's purpose but is not sure what would have happened if they had not come upon it.

James said we can discuss this at great lengths but need to take some step to keep this from happening in the future and there needs to be better control over it. Selectman Dabuliewicz said he would be happy to talk to the Board of Selectmen about establishing a separate account for the purpose of wire transfers. Discussion was held on how many tax payments come via wire transfer which is probably very few. Selectman Dabuliewicz said he would also talk to the tax collector about it.

Vice Chair Frost stated his chief concerns are accountability to the people whose money is put into the account, that being the developers who are fronting the escrow account to have us hire a third party engineering review and the audit implications if an account established for a specific purpose is used for a different purpose.

Don Hall said it's about accountability and this is not something new, it has happened in the past and that he thinks it's time to get a handle on it.

Peter Anderson arrived at the meeting at 7:22.

Letter from Land Use Office to 393 Pumpkin Hill Road owners – Vice Chair noted the letter to the Biagottis is dated March 22nd and that the Planning Board had done a conceptual consultation with them. There had been multiple searches looking for documentation on this property and a document turned up in the town library on microfilm. The letter that was sent is as follows:

March 22, 2015

Melissa and Michael Biagotti
2276 Lookout Landing

Fleming Island, FL 32003

Re: Special Exception

Case # 2015-03

Dear Mr. and Mrs. Biagotti,

At the August 3, 2015 Conceptual Consultation you had with the Planning Board, there were discussions of previous use of the 393 Pumpkin Hill Map 15 Lot 15 property. Prior to that, multiple searches of the Land Use Office files had not produced any documentation of previous action by the Planning Board or Zoning Board of Adjustment.

Recently, copies of Zoning Board of Adjustment Decisions were discovered archived in the Town's Pillsbury

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Free Library. Attached please find a copy of the November 4, 1976 decision for Arthur Hicks and the March 24, 1984 decision for Virginia Hicks. The Virginia Hicks decision refers to a letter which has not been located. Neither decision refers directly to a Map and Lot identification number.

Please contact the Warner Land Use Office with any questions

Vice Chair Frost noted there are two decisions referred to in the letter and the Land Use Secretary clarified the Biagottis applied for a Special Exception and in doing so had been looking for prior authorizations to use the property for a specific purpose. She noted the Special Exception was granted to the Biagottis last fall, there was a Rehearing Request and with the rehearing the Special Exception was denied by the Zoning Board of Adjustment this past month.

Ben noted it does not require an action on the board's part and is strictly an FYI.

Email from CNHRPC Application Review Process – Vice Chair Frost said this is in response to our request for feedback on the Check list and Application Review process and that a variety of suggestions were included. The email from Matt Monahan is as follows:

1. *Overall: Most important thing is to find a way that not only works best for the board, but that accomplishes the following:*
   a. *It identifies what is missing or is needed as early in the process as possible.*
   b. *It is predictable for applicants.*
   c. *It builds in time for revisions to be made and additional submittal items provided prior to the meeting.*
2. *Checklists: Checklist reviews in general are the way to go. Two questions emerge: 1) does it capture everything; and, 2) is it user-friendly. Best thing to do is periodically review the checklist with the Regs for accuracy as over time, they can become different. Also, it is important to cite the relevant section of the Regs that each checklist item is derived from. Another thing to consider is that it needs to be clear on the checklist what the relationship is to the Regs. Best way to do this is by having a disclaimer that indicates that it is part of the Regs and is not a substitute for applicants reviewing the regs (they often operate this way).*
3. *Process: With a sound checklist in hand the Board would want to engage in a review early with the applicant and give them time to make changes. In some instances, an applicant receives the feedback the day of the meeting which can be problematic as it adds more time. It's not so much providing additional materials and making plan changes that applicants don't like, its more the time involved. This is where early feedback comes into play and is more helpful. Also, it results in the Board looking at a more complete application the day of the meeting. A final thing to consider is department head comments. Often these come to light during the first meeting which creates the same problem. A more challenging situation is when department heads provide comments extremely late the process – say when a department asks for things after the conditional approval is given (see* below for a scenario I saw last year as an example). With this in mind, here is a rough ideal way to proceed:*
   a. *Applicant submits application 25 or so days in advance of the meeting (this gives review, revision, and notice time).*
   b. *Some representation of the Board (Chair, staff, etc.) meets with the applicant, the Building Inspector/Zoning Administrator/Code Enforcement (if one works for the Town), and all of the department heads as soon as possible (no more than a week after submittal). At this meeting, the department heads should provide comment to the applicant/designer. Once that process is done, the department heads can leave and the PB representation (Chair, staff, etc.) along with the BI/ZA/CEO review the applicant with the checklist in the applicant's presence.*
   c. *After the meeting above, the Town sends a letter to the applicant describing the missing items and department head comments. Applicant then has a period of time to provide the requested changes/materials. This period of time should coincide and include with the required timelines such as abutter notice, etc.*
   d. *Once revised material is submitted, notification is then sent out as normal.*
   e. *Meeting is held and process continues from there.*

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4. *Other ways: While an ideal situation is described above, there are several ways to achieve the overall objectives of predictability, early feedback, and time to make changes:*
   a. *Bow: Bow uses a situation where the checklist review meeting occurs before formal application submittal. This is required by their regulations. Department head commentary comes in written form. They have a full time planner who has an assistant.*
   b. *Allenstown: they use the process described in 3 above. I serve as a part-time planner on an as-needed basis.*
   c. *Chichester: Chichester is in the process of developing a new way to do this. They have a secretary for the Planning Board who will institute a boiled down version. In this case, the idea is that the Secretary and building inspector do the checklist review meeting with the applicant. Comments will come in from department heads, and the Secretary will put all of this in a short memo for the Board. The Board likes to do checklist review at the meeting, so what will happen is: 1) they will continue their review at the meeting; 2) the Secretary's memo will be for their reference; and, 3) the memo and checklist review process will force the applicant to update the plans sooner in the process before the board has to look at them at the meeting. <u>This model might work best for Warner</u>…*
   d. *Pembroke: Pembroke has a full time planner and building inspector. They hold a technical review committee meeting and the planner reviews plans. Comments are provided to the applicant who then has the opportunity to revise before notice goes out.*
   e. *Others versions exist, but this should give a good picture as to what options are out there, ranging from full time staff to part-time, board reviewing checklist a the meeting or not. The big question for the board to answer: how would they envision the ideal meeting playing out? Review memo capturing everything, PB doing a checklist review meeting, or some combination…*

**Example from a local town: Department heads asked for comment by the Board early in the process. One department failed to provide comment and asked for an easement well after the conditional approval was given for the project by the board (keeping in mind the board asked for comments and they chose to provide none). The result was about 8 months delay, lots of lawyer involvement and a lot of anger. The issue in question was to make a 40' utility easement into a 50' easement. This impacted building layout and the plan as a whole. Had this information been provided early, it would not have been a problem.*

Ben noted the Chichester example that is given and Mr. Monahan's suggestion that it might work for Warner. He said he's not sure it differs a whole lot from what we currently do aside from the fact that we sometimes have difficulty getting comments from Department Heads.

Vice Chair Frost said that in the past year when Rick was Chairing, he sought to accelerate the initial review process by going through the checklist himself prior to the board reviewing it. Ben asked for thoughts and suggestions from board members.

Peter Anderson clarified that the goal is to make the process more fluid for the applicants as well as save time at the meeting. He said it strikes him that somewhere they need to have some review prior to the meeting in order to accomplish those goals and a simple way would be for the Land Use Secretary to gather all the application materials and review it with a board member and the applicant.

The board discussed doing this to facilitate the process, whether it would be appropriate and doable to distribute the material via email prior to the meeting, that at some point we may want to have applicants submit documents electronically, and what the current process is.

Ben noted that for several years after he joined the board, all review was done at the board meeting with the board dividing into separate teams to go over the checklist which would take 10 minutes. He said it worked pretty well but the difficulty is that it does not create a process that is more beneficial to the applicant because they find out at the meeting if they are missing something.

The Land Use Office Secretary said that typically what she does is if something is missing or incorrect with the applicant, she calls or emails them and to date hasn't had a structured meeting to review it with them.

Ken Millender noted the email from Matt Monahan stated that the town of Chichester has the Land Use Secretary meet

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with the building inspector to review. It was clarified that Warner does have a building inspector.

Barbara Annis asked if Lois could send out an email to all members of the board telling them when she will be in the office so that they can come and review an application. Vice Chair Frost clarified that an applicant has to submit an application 15 days before a meeting and that there is currently a bill in the legislature - HB 1202 that would extend that to 21 days which would make what Barbara is suggesting feasible. The concern with it is that we should not be conducting a meeting and if you have a quorum (four board members) together as long as they are not talking it's not a meeting.

James asked if a review of an application would have to be a noticed meeting and Ben said no, as long as members are reviewing it individually. His concern is if there is communication between members even via email which would be a problem. It was discussed that members could schedule time in the Land Use Office with the secretary to review an application, that chances are no more than two members would be in the office at a time, and that the review would need to be done prior to a meeting notice going out to insure the application was ready to be presented at the meeting.

Ben suggested the board review the material sent by Matt again and think about alternative systems. He will talk to Lois about ways of setting up a schedule to review things and they also need to keep an eye on HB 1202. With the current requirement, there would be a four day window to review an application which is really insufficient.

5. NEW BUSINESS

Election of Officers – Vice Chair Frost noted there are two officer seats open for Chair and Vice Chair and asked how the board would like to proceed.

Barbara Annis asked Ben if he would be willing to be Chair and he said he would be but wants to leave it open to anyone else who wants the job. Ben said nominations don't require a second and that any board member can nominate another for office.

James asked what the role of an alternate is in this process and are they allowed to nominate or second? Ben replied they cannot nominate and clarified no seconds are required. He opened nominations for the position of Chairman of the Planning Board.

Barbara Annis nominated Ben Frost. There were no others. Ben asked the board members to vote on this nomination. A voice vote was taken with a unanimous yes.

The nomination for Vice Chair was opened and Ben noted under Rick as Chair the duties were extremely light. Ken Milender nominated Barbara Annis. . A voice vote was taken with a unanimous yes.

Planning Board Appointments by Board of Selectmen – Newly elected Chairman Frost noted this was originally worded as recommendations in the draft agenda which he changed to a discussion as it is his opinion that it is not appropriate for the Planning Board to make recommendations to the appointing authority. Barbara Annis said that it is in the Rules of Procedure that the Board can do so.

There was a discussion as to whether or not Peter Anderson had been reappointed as an alternate at the last Board of Selectmen meeting with varying opinions. Chairman Frost asked Selectman Dabuliewicz if the Board of Selectmen had requested recommendations from the Planning Board.

Selectman Dabuliewicz replied they have not made a formal request but based on the conversation they had they were going to ask. It was noted by Barbara that last year the Selectmen decided who would do what. The board discussed if any applicants had been interviewed last year and James Gaffney replied he had been.

Chairman Frost asked what the Planning Board would like to do as we have a potential request from the Board of Selectmen for recommendations. Selectman Dabuliewicz said since they have an applicant, he personally would like to have a recommendation as to who will be moved up to fill in for Rick Davies spot as full board member. He left the Board of Selectmen meeting where this was discussed with the understanding that an alternate would be moved up.

Don Hall said when you give the powers to the Board of Selectmen hopefully they would take into strong consideration people who are on the board and not take someone that is a business owner in town who decided they should be on the board. That could create problems and he has never seen it done.

Ben asked if other board members agreed with Don to move up an alternate to regular member position as opposed to taking someone from outside the board. The board was in agreement. Chairman Frost said the Board of Selectmen has complete authority over the appointment of regular Planning Board members and alternates. If this was an elected board, we would have the power to appoint alternates and to fill vacant positions.

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Chairman Frost asked if they could say it is the consensus of the board that the Board of Selectmen consider one of its alternates to be moved up to regular member. The board was in agreement that would be appropriate. Ben asked Selectman Dabuliewicz to carry that to the Board of Selectmen as a recommendation who replied the board might want a specific person's name. One thing he would do is to interview someone who is not already on the board and if they are already on the board they were probably already interviewed. He wondered how many current members had attended any training and he would want someone willing to do that. It's not a job you walk into and automatically know what you're supposed to do.

James Gaffney asked about training and the yearly Office of Energy and Planning Conference was discussed, that it will be held on June 4th this year at the Grappone Center in Concord and Ben Inman who attended last year as a new alternate stated it was very helpful to him. Chairman Frost said he has been teaching at the conference for several decades and sometimes sits in on the basic sessions where he still learns.

John said his specific question would be whether the alternates at the meeting tonight would be willing to go to the OEP Conference this year and they all said they would be. Ben noted that the Office of Energy and Planning is statutorily obligated to provide this training. He said the Municipal Association does a series of three Law Lectures in the fall on Wednesday evenings which are two hours long, in five or six locations and tend not to be as basic as the OEP topics are.

Selectman Dabuliewicz asked to bring up another piece of new business and stated the Board of Selectmen are working on developing an Economic Development Committee and it has been suggested that a representative of the Planning Board serve on it. He said his personal intention is to have an advisory committee that does not have any Board of Selectmen or the Town Administrator on it. Barbara Annis agreed that someone from the Planning Board should be on it and the reason why is that what you do with zoning depends on what you do with economic development.

Don Hall said this is certainly going to become more important to the town. Hopefully there will be an attempt to advocate for the town of Warner to improve the commercial district which needs to be done in order to survive. James noted it's not a short term effort and will take many years to do for lots of reasons including the reputation with regard to business that the town needs to overcome.

Chairman Frost said bearing that in mind, in particular what Don said, from a Municipal Government Land Use standpoint, establishing the pre-conditions for economic development is important. If we don't, then we close the door to new business. He asked Selectman Dabuliewicz if he was looking for names for the committee and he replied that if anyone is interested they can contact him. Discussion was held regarding a mission statement which is being worked on and the timeframe for when the committee gets going which realistically is probably a couple of months.

6. SUBCOMMITTEE REPORTS

Master Plan Subcommittee – Chairman Frost noted the board had meeting minutes from the subcommittees first meeting in which they talked about what the task at hand is and how to approach it. They also assigned responsibility for specific chapters.

Ben said they are not attempting to rewrite the Master Plan but to update it, identifying gaps and attempting to fill them. They will be spending the next few months working on it.

The next meeting was scheduled for April 20th and after discussion was moved to April 18th at 7:30 as there is no Planning Board work session on that date. Ken Milender asked if the committee needed someone to take over for Rick Davies and Chairman Frost replied that Rick has asked to stay on for the purpose of finishing these tasks and he will take that as Chairman's discretion to appoint him as a member of the committee from the public.

7. COMMUNICATIONS AND MISCELLANOUS

Chairman's Report - Chairman Frost said he received an email from Rick, and in part is what was included in the meeting packets as a timeline for Map 3, Lot 27 on Old Warner Lane. Ben said Compliance Officer Peter Wyman has been filling in as Building Inspector and came upon a building permit that was issued for this site that is not in compliance with the approved Site Plan. Peter felt uncomfortable about it so he referred it to Rick who referred it to Ben.

Chairman Frost noted there are a couple of buildings that are not in compliance with the approved site plan. He stated he doesn't think it is a huge deal from a Site Plan standpoint but it is a problem that the building permits were issued that don't fit what the Planning Board approved. It is another example of this boards decisions not being incorporated into the building permit process. Ben said he is directing this to John Dabuliewicz and that the Planning Board needs much better coordination with the building inspector on the issuance of building permits so that whenever it's for a commercial site the inspector has to look at the approved site plan to see if it complies with it.

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Selectman Dabuliewicz asked what the building inspectors process is, that this is not already happening. Chairman Frost replied he didn't know. Selectman Dabuliewicz asked Ben to clarify the situation with the site plan they are looking at. Ben described it, that it is a substantial deviation from what was approved and may be as simple as the property owner coming in for a modification to the approved site plan which to him would be an appropriate course of action.

The Planning Board discussed how this situation should be addressed, that a letter from the board might be the most straight forward way, and if it could be handled in writing versus a visit in person. Chairman Frost said that is difficult to know as he is not familiar with the site and doesn't know what has been done and if there are more substantial changes that have been made. He made the point that it's not just the buildings that changed but potentially drainage onto neighboring properties which is his concern.

Don Hall asked what the overall attempt is and Ben replied all we know is what is before us and reviewed that a building has been erected that is significantly different from what was approved and a building permit for another has been issued. Don asked why we can't do the same in this situation as we did with Danny Lavoie and several other situations and bring them in for a discussion with the Planning Board.

Ben Inman said that he felt it was a good idea to bring the owner in and several other board members agreed with that. James said it's hard to say, if it seems it's something simple we should start with sending a letter. Ken agreed with James, asked for clarification on the history and said that Don had a good point in treating everyone the same as far as bringing them in.

Peter Anderson noted it's been 15 years since the plan was originally approved and they went 6-7 years before they put up another building that didn't quite conform. The present building is an odd size, they aren't paying attention to what they were approved for and the building inspector process is something we need to look at as well.

The board discussed the Kearsarge Business Center/Dan Lavoie situation and what the progression was. Barbara said she would be concerned about the space between the two new buildings and whether or not a fire truck could get in there if something happened with one of the units.

Chairman Frost stated the majority view is to ask the property owner to come in and explain what is going on and that would be set up for the next regular meeting in May.

Compliance Officer Inspection Reports – Ben noted he got an email today regarding a conversation Rick had with Peter Wyman. The Nicom site with the three sided building is well into construction. The Knoxland site has grass and minor site work remaining to be completed. The North Road telecommunications facility tower and enclosure are complete, but no gear/building/power or antennas are on site and it has been like that for half a year.

Regarding the garage on East Sutton Road on the corner of Route 103, Rick had notified Peter of a possible violation of a ZBA decision from years ago. The neighbors had complained in the last year or so, Peter Wyman reviewed the Planning Boards decision of 2005 that said that no site plan review was required. Rick says in the email that he became aware awhile back that the number of cars is over what the ZBA decision allowed and per previous town counsel recommendation on discovered information; the correct process would be to send a copy of the discovered ZBA decision to the neighbor group who has previously submitted their written concern.

Chairman Frost said that is just reporting to the board what is going on and he asked Lois to send the ZBA decision on to the Board of Selectmen and to the property owners.

Selectman Dabuliewicz asked about the record situation that had been referred to several times during tonight's meeting. Chairman Frost clarified with the Land Use Office secretary that currently the ZBA files are by last name and noted it would be great to have them all by Map and Lot number. James said it would be a continuing issue that he hopes the town makes an attempt to get ahead of because the longer we go on without any modern ability to handle records electronically the worse the problem will get.

The discussion continued with why the ZBA records are filed as they are, that the Land Use Secretary has a project on her list to refile them by Map and Lot number with the consent of the Zoning Board of Adjustment, and that coordination between the ZBA and the Planning Board may be helpful. Selectman Dabuliewicz said we don't have a lot of staff to do these things but it doesn't mean that we can't do them.

Peter Anderson noted that Jonathan Lord has compiled a lot of the town meeting minutes of the Planning and Zoning Boards and the Town Reports so that they are in a searchable PDF file. The Land Use office, Selectmen's Secretary and Town Clark have copies of them to use.

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Determination of Site Plan Review Applications – The Land Use Secretary stated no new applications had been submitted.

Selectmen's Representative Report – Selectman Dabuliewicz noted the Board of Selectmen is very far from having a site plan for the new fire station to present to the Planning Board for review. There is a title search being done by Brackett Sheffey that they just got back.

There was a work session today concerning the roundabout. Based on our engineers suggestion they are hoping to advertise it beginning April 12th and have bid openings on May 5th.

It is his intention to have the mission statement for the Economic Development Committee ready in order to have a brief excerpt of that included in the tax bills along with a survey about what kind of development people would be interested in. It's been done before and is an easy way to make sure we reach most of the people in town. There will also be a little blurb in the next town newsletter.

8. <u>ADJOURN</u>

MOTION to adjourn was made by Ben Frost, seconded by Don Hall. Chairman Frost said he is going to institute the practice of no motions to adjourn. As Chairman he declared the meeting adjourned at 8:35 p.m.

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