

**TOWN OF NORTH HARMONY
TOWN BOARD MEETING
MONDAY 10/12/09 8:00 PM**

SALLY P. CARLSON, SUPERVISOR	PRESENT
RALPH WHITNEY, COUNCILMAN	PRESENT
ART THOMAS, COUNCILMAN	PRESENT
FRANK STOW, COUNCILMAN	PRESENT
DICK SENA, COUNCILMAN	PRESENT

OTHERS PRESENT: Jay Gould, Legislator; Dave Lloyd, Stormwater Planner; Howard Peacock, Everett Bensink, Justices; Brad Lawson, Zoning C.E.O.; Dave Stapleton, Attorney; Robin Miller, Bookkeeper; John and Penny Best; Gary Ryan, Highway Sup't.; Denise and Daniel Buckingham; Mike Gleason, AFD; Clayton and Helen Emick; Chris Yates, C.L.A.; Nancy Thomas, Town Clerk

- **PLEDGE**
- **MINUTES**

MOTION # 135 OF 2009

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. WHITNEY, THE MINUTES OF THE 9/14/09 TOWN BOARD MEETING WERE ACCEPTED AS PRESENTED BY THE TOWN CLERK. THE MOTION WAS CARRIED UNANIMOUSLY.

- **ANNOUNCEMENTS:**
- **PUBLIC COMMENT**
- **CHRIS YATES – CLA**

Mr. Yates introduced himself as the President of the CLA and a member of the CLMC. He thanked the board for their support of the CLA going back to 2000 and asked for the boards continued support of the organization. He said they are facing difficulties since NYS cut their \$50,000 budget down to \$25,000. He said the CLA is funded primarily by private citizens and local governments. He gave a status report of the CLA this year and said they had removed 10,000,000 lbs. of sub aquatic vegetation from the lake this year; spent thirty 8/hr. days and 960 man hours on shoreline cleanup in the town of North Harmony; twenty four 8/hr. days harvesting weeds in North Harmony and 192 trucking man hours to remove ¼ million lbs. of weeds from the town. He said currently they have been working 4 ½ weeks on dredging a 50x400' delta that has been created at Goose Creek and hope to make that navigable. He thanked the town for the use of Butts Park brush dump as a place to take the sediment removed from that creek and commended the town for their stewardship. He stated that the CLA relies on long standing partners such as North Harmony and requested the towns continued support at the current level or perhaps more if possible.

- **CORRESPONDENCE:**

Mrs. Carlson said the following correspondence has been received and is available for review.

1. GLEN SMITH – Energy Curtailment Specialists

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2. **PROFESSIONAL UNDERWRITERS – Workman’s Comp**
3. **TIME WARNER** - No Changes in Service at this point
- Channel Expirations
4. **INDEPENDENT HEALTH – Coverage through age 29 (premiums paid by members)**
5. **NYS – ORPS – Per Capita Aid received \$12,838.00**
6. **CHAUT. CO. IDA – Wind Energy Conference 10/23-24/09, Chautauqua Suites**
Mrs. Carlson said if you didn’t attend last year, this conference is well worth attending.
7. **STW – Fall Planning & Zoning Conference** - 11/17/09 SUNY Fredonia 5-10:00 pm
repeat - 11/18/09 Center for Regional Excellence 12-5 pm
8. **CHAUT. CO. FINANCE – Payment from 2% bed tax on 25% of grant projects:**
- Cheney Point \$10,000.00
- Stow Area \$9,543.75
9. **ASSESSOR – JUNE & AUGUST SALES**
10. **TVGA CONSULTANTS – 2009 Free Planning & Zoning Board Training – Monday 10/26/09, 5-9:00 PM at Town of Chautauqua Offices**
11. **MALCOLM BRUCE – ASHVILLE BAY**
Mrs. Carlson said Mr. Bruce thanked the board for allowing him to appear at last months meeting. He said Mr. Stapleton had advised him to look into his deeds and he attached a partial survey showing what he finds to be evidence that the town owns the road (old traction line) in question.
Mr. Stapleton said he would contact Chautauqua Abstract Co. and have them look over the maps and titles (including other homes in the area) since there are still questions as to the ownership of the road.
12. **NYS TOWN CLERKS ASSOC. – Nancy Thomas appointed to serve as District 10 Director Chaut. and Cattaraugus Counties**
13. **RMSCO, INC. – CHAUT. CO. INSURANCE – Loss Control/Claims Review Mtg. 10/14/09 10:00 AM GOB ROOM 331**
Mrs. Carlson noted that the town is under the county plan and the cost to move to another carrier would be substantial because of liability requirements.
14. **GLEN JOHNSON, WELLS BAY (e-mail)**
Mr. Johnson thanked Mr. Lloyd and Mr. Ryan for their help in resolving his drainage issues at his home on Wells Bay Road.
15. **CLMC DINNER AT SR. CITIZENS, Tuesday 10/20/09, 6:00 PM**
Mrs. Carlson said that representatives from the Town, Planning and Zoning Boards of towns located on the lake were invited to discuss the watershed. She encouraged attendance.

- **OLD BUSINESS:**

- **PROPERTIES IN ASHVILLE -**

Back taxes:	32-1-2	\$261.32
	32-1-1	<u>\$ 47.00</u>
		<u>\$300.89</u>
	+ filing fees	<u>\$612.00</u>
	TOTAL COST	<u>\$912.89</u>

Mrs. Carlson said Mrs. Thomas had done some investigating and the figures for the back taxes on the properties are as noted above. She asked Mr. Gould if he had approached the legislature and he said he had not because he wanted to speak to the DEC about the environmental issues associated with the one piece of property. He said he had spoken to the gentleman who was also interested in purchasing the property. Mrs. Carlson said the one property had been removed from the tax auction because it had not been cleared environmentally after brown field mitigation.

Mr. Gould said he has been very busy with budget hearings but has not forgotten, and will pursue the issue, but not before getting something in writing from the DEC.

Mrs. Carlson said if the town does acquire the properties; a pipe would need to be put in the hole that drains from behind the post office and across at Mildred's.

- **ADOPTION OF LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)**

Mrs. Carlson said the town had not yet adopted the LWRP Resolution. She said the Planning Board had reviewed and recommended its adoption. *A Public Hearing for the adoption had been held in of 2008, but the resolution was tabled for further review by the board.* She said it provides some extra protection to the lake front during building projects. She asked the board what they would like to do.

Mr. Stapleton asked if the law will be overly restrictive.

Mr. Lawson said it would be somewhat more restrictive, for the better, and he is in favor of adopting it. He said he believes they are currently revising the Consistency Law.

Mr. Sena said some of the issues covered in the resolution are water control, erosion and silt fencing during projects.

Mrs. Carlson asked the board if they wanted to table the matter until November and take the time to review the resolution.

Mr. Stapleton said currently the town has SEQRA protection on larger projects that they don't have on residential projects. He said there are development criteria under the zoning law but they are really not necessarily as fine tuned as the SEQRA process standards. He said the resolution creates an investigative process that allows for the determination of mitigation, if necessary, and should not take too much extra time in the planning/permitting process.

MOTION #136 OF 2009

MR. SENA MOTIONED THAT THE LWRP RESOLUTION BE TABLED FOR REVIEW AND THAT A PUBLIC HEARING ON THE LWRP BE HELD ON 11/9/09 AT 7:45 PM PRIOR TO THE REGULARLY SCHEDULED BOARD MEETING. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

• <u>SALE OF TOWN PROPERTY – STOW FERRY ROAD:</u>	Property	\$ 20,000.00
	Record deed	\$60.00
	RP-5217	\$250.00
	Courier	\$ 30.00
	Attorney	\$600.00
	Tax pro-rate	\$229.06
	School Tax	<u>\$150.66</u>
	TOTAL	\$ 21,319.72

Mrs. Carlson said the above listed amounts are the expenses incurred on the Regner property. She asked the board what they would like to do.

Mr. Sena asked about the silt from Goose Creek being dumped at Butts Park. He asked Mr. Ryan if he was in charge of bulldozing that. Mr. Sena said the town will be borrowing a dozer from Chautauqua County to use at the Regner property and perhaps it could be used for both projects.

Mr. Ryan said yes and that it could be moved with a dozer or the front end loader.

Mr. Sena asked Mr. Ryan if he had started any of the 2% bed tax projects (Stow Area and Cheney's Pt.).

Mr. Ryan said not yet. He said he is replacing pipe on Diffley Road and when that is completed he will start on those projects.

Mr. Sena said he would like to get the Regner property cleaned off; determine what the cost of that was to the town; and then set a price in the spring.

After general discussion the board decided to complete the clean up of the lot with the aim of placing it on the market in the spring.

• **NEW BUSINESS:**

• **NORTH HARMONY HALLOWEEN HOURS – Saturday 10/31/09 5 – 7:00 PM**

• **SALE OF CEMETERY LOTS FOR 2010**

Mrs. Carlson said she had asked Mrs. Thomas to check on prices for cemetery lots in nearby towns. She said our lots are currently \$250.00 each; Busti at \$650.00; Ellery at \$500 (residents) \$750 (non-residents); and Chautauqua at \$500/2009, \$600/2010, \$700/2011. She said burial costs are pretty consistent for all the towns. She asked the board to review the cost sheets provided with the intent of perhaps establishing new prices for the town for 2010.

MOTION #137 OF 2009

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. SENA, CEMETERY LOT PRICE INCREASE DISCUSSION WAS TABLED UNTIL THE NOVEMBER, 2009 BOARD MEETING. THE MOTION WAS CARRIED UNANIMOUSLY.

• **APPOINTMENT OF PAUL SILZLE TO ZONING BOARD OF APPEALS AS ALTERNATE**

Mrs. Carlson said Paul Silzle had expressed an interest in serving as an alternate on the Zoning Board of Appeals.

ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. WHITNEY, PAUL SILZLE WAS APPOINTED AS AN ALTERNATE ON THE ZONING BOARD OF APPEALS EFFECTIVE 10/12/09 (REPLACING PAUL MARLINSKI). THE MOTION WAS CARRIED UNANIMOUSLY.

- **TOWN CLERK – THURSDAY EVENING HOURS 6:00 – 8:00 PM**

Mrs. Carlson said Mrs. Thomas would like to change her Thursday evening hours to coincide with the court. She said it would be nice if this could be done prior to winter and asked if anyone had any objections. Current Thursday evening hours are 7-9:00 PM and would be changed to 6-8:00 PM.

Mrs. Thomas said she feels these hours would better serve the public because it would allow residents to stop on the way home from work to take care of their business.

MOTION #139 OF 2009

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. STOW THE TOWN CLERKS THURSDAY EVENING HOURS WILL BE 6:00 – 8:00 PM EFFECTIVE 11/1/09. THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Bensink said there might be some conflict with persons waiting for the doors of court to open at 6:30. He said normally the court does not allow entrance until 6:30 PM and that could make it difficult to determine who is there for court and who is there for the Town Clerk.

Mr. Peacock said the court would have no objection to moving their hours to 6:00-8:30 PM and that would solve the problem.

Mrs. Thomas said that since the court provides security the decision should be theirs.

There was further general discussion of Thursday hours of operation.

MOTION #140 OF 2009 (AMENDING MOTION #139 OF 2009)

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. STOW THE FOLLOWING SHALL BE THE THURSDAY EVENING HOURS AT THE TOWN OF NORTH HARMONY EFFECTIVE 11/1/09: COURT, 6:00-8:30 PM; TOWN CLERK 6:00-8:00 PM; ZONING C.E.O. 6:00-8:00 PM. THE MOTION WAS CARRIED UNANIMOUSLY.

- **SCHEDULE DATE FOR PUBLIC HEARING ON BUDGET 2010 – Total budget is down \$40,799.74, rate is down \$.10/1,000. This will remove all outstanding dept except water and sewer lines for B.O.C.E.S. – Sunrise Cove**

There was discussion of the payoff on the 2007 International dump (760) truck.

Mr. Thomas asked what the payoff amount would be.

Mrs. Carlson said if it is paid off this week it will be \$74,628.00 (savings of \$8,477 in interest). She said the price change is because the payoff is not what the town thought it would be so the figure is about \$20,000 more.

Mr. Sena noted that the tax rate will be going down.

The Public Hearing on the 2010 Town of North Harmony Budget is scheduled for Tuesday, October 27, 2009, at 7:00 PM.

- **TRANSFER STATION CONTRACT – PENHOLLOW DISPOSAL, LLC**

Mrs. Thomas said she has reviewed the existing contract and spoken to Mr. Penhollow about the transfer station contract for 2009-10. She said she would like to make modifications to the contract to include the bid pricing as specified in Mr. Penhollow's bid. She said previously the board had amended the contract for 2009 to include the extra employee at the transfer station at \$450.00/month for the months of January thru May, 2009 and September thru December, 2009, (excluding the months of June-August included in the original contract). She said if the board agrees, the contract should also be amended to include the extra employee at the transfer station for the months of January thru May, 2010 and September thru December, 2010, at a cost of \$450 per month. She said Mr. Penhollow's contract with the town would expire on 12/31/10. Mrs. Thomas said residents seem to really appreciate the extra help with their trash and it helps to keep things moving quickly on busy Saturdays.

MOTION #141 OF 2009

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. WHITNEY THE CONTRACT BETWEEN THE TOWN AND PENHOLLOW DISPOSAL, LLC, FOR THE OPERATION OF THE TRANSFER STATION WAS AMENDED TO INCLUDE AN EXTRA EMPLOYEE FOR THE MONTHS OF JANUARY – MAY, 2010 AND SEPTEMBER – DECEMBER, 2010 AT A COST OF \$450.00 PER MONTH. THE MOTION WAS CARRIED UNANIMOUSLY.

- **MIKE MANGIONE – GOOSE CREEK CORP.**

Mrs. Carlson said that Mr. Mangione had approached her about the Goose Creek Corp. which is located on the opposite side of Rt. 394 from the lake. She said the land is part of Loomis Bay on which properties are leased and improvements (homes, etc.) belong to the lease owners (tax bills are divided between the leaser/lessee by land/improvement). She said these properties can be purchased from Loomis Bay and Mr. Mangione wants to establish that the town has no objection to the lease owners dividing the land into lots which would be substandard in size. She said they are having issues getting liability insurance on that large a tract of land. She asked what needed to be done to address the situation and said it should be the same as the lakefront.

Mr. Stapleton said he wasn't sure, but he believed that the town may have had a type of "gentlemen's" agreement where the town would allow the Goose Creek lakefront (from Rt. 394 to the lake) to go forward with the way the laws were at that time. He said with the recent changes in the County Health Dept. rules, maybe the town should take the time to investigate before moving forward.

Mrs. Carlson said Mr. Mangione does have a letter from Mark Stow, of the Chaut. Co. Health Dept.

Mr. Stapleton said he needed the portion of the letter dealing with septic clarified in terms of the new 40,000 sq. ft. laws enacted by the county. He said he would like to talk with Mr. Stow and Mr. Lawson and suggested that the town send the request to the Planning Board for review and recommendation.

Mrs. Carlson said she believes it is the goal of the Corp. that the footprints of existing improvements not be increased.

Mr. Stapleton noted that there is always pressure, even off the lakefront to expand. He asked what the property is zoned and asked about existing septic.

Mr. Lawson said he believes part is AG-Res and part is R-4 (back portion by creek). He said he is not aware of the septic, etc. situation, but believes Mr. Stow is. He said he had spoken to Mr. Mangione who said he had spoken to Mr. Stow. He said he had not seen the letter from Mr. Stow stating basically it was "OK" as long as everything stayed the same, but as soon as improvements are made things might change.

He said that would be up to the town as far as variances, if it is viewed like the lakefront and resolved that the lots can be substandard but any type of improvement would have to go to the Zoning Board of Appeals.

Mr. Stapleton questioned what the projected usage of the places over the next 10-15 years will be and how does that fit with what the town envisions. He said that should be addressed by the Planning Board so that when it gets to the Zoning Board they will have a clear indication of what the town wants.

Mr. Lawson said perhaps Mr. Stow could speak to the Planning Board at their next meeting to address the issues involved. He said perhaps Mr. Mangione could come also.

Mr. Stapleton said the town needs to know whether or not to treat it like it's a non-conforming use, but do things on a variance basis or do they want to set up new criteria and treat it as a new style zoning area.

MOTION #142 OF 2009

ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. SENA, THE REQUEST OF GOOSE CREEK CORP. TO DIVIDE LAND INTO SUBSTANDARD LOTS WAS FORWARDED TO THE PLANNING BOARD FOR REVIEW AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

- **REPORTS:**

JAY GOULD, LEGISLATOR

Mr. Gould said the following has occurred in the Legislature:

- Resolution passed to accept a grant for CARTS \$289,000 – 2009 and \$293,000 – 2010
- Resolution for enhanced police protection in Bemus Pt. from July thru September, 2009
- Data collection process for county highways with county putting up \$25,000 in “in kind” services. Mr. Gould said each road, bridge, etc. will be graded and this will make for more efficient road management.
- 2010 Legislative salaries – Legislators/\$9,000 each; Chairman/\$17,000; Majority Leader/\$10,000; Minority Leader/\$10,000; Asst. Majority Leader/\$9,500; Asst. Minority Leader/\$9,500; Committee Chairman/\$10,000; ranking member/\$9,250.
- Lengthy discussion on the phosphorus law. Mr. Gould said he had asked for a postponement on the vote for 2 months until the CLMC report was received. He said the law was passed and you cannot put phosphorus on your lawn without approval.
- Mr. Gould said budget meetings have taken up most of his time for the last week. He said there is a large hole in the 2010 budget (no stimulus funding, low fund balance, health, retirement, wage increases, reduction of sales tax to 7.5% and decreases in sales tax revenues) that concern him. He said the 2010 budget uses a great deal of fund balance money which the state requires maintained at 5% and the current budget causes that balance to be less than that. He said there are two ways to go; reduce the taxes by a larger amount now or maintain the same levy for the next two years.

Mrs. Carlson said a resident had asked if the guard rail on Ramsey Road will be put back in.

Mr. Gould said he would ask, but he is sure they will.

Mr. Thomas said when the bridge work is completed they will replace the guard rail. He said that is usually the last thing they do.

GARY RYAN, HIGHWAY SUPERINTENDENT

Mr. Ryan said the highway has been working on ditches, pipe work, getting equipment ready for winter and has black topped Longview Avenue. He said there is a bad pipe on Diffley Road that has to be replaced and as soon as that is done he will get started on the Stow Area project.

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Mrs. Carlson asked if that is a cross over pipe that belongs to the town.

Mr. Ryan said yes. He asked to transfer \$10,000.00 from Snow Removal DS5142.4 to Machinery DM5130.4 because he is running low in that account. He also said his Bridge money is low (balance a little over \$3,000) because the materials for the Stow Area project came out of that fund.

Mrs. Carlson said the money spent on materials has been refunded to the highway with the 25% grant funds received in the amount of \$19,543.75.

Mrs. Miller said the money will be refunded to the accounts from which the expenditures on materials were deducted.

Mr. Ryan said materials such as sluice pipe or other items having to do with drainage come out of the Bridges fund. He said any of the items purchased for the storm water project came out of Bridges (with the exception of related studies which came out of General Repairs).

Mrs. Carlson asked if the refund of grant funds would cover the \$10,000.00 needed in Bridges without the necessity of a transfer.

Mr. Ryan said yes.

HOWARD PEACOCK / EVERETT BENSINK, JUSTICES

Mr. Peacock that fines totaling \$28,372.00 from the courts has been turned over to the Supervisor and NYS Comptroller for the month of September.

Mr. Bensink asked to attend the Magistrates 100th Anniversary Convention at Lake Placid in October for training and certification. He said the State Magistrates Assoc. will reimburse for mileage and one nights lodging. He said the only expense to the town would be the other 2 nights lodging.

Mr. Peacock said he would take the training and certification at JCC. He said the Justice Court Assistance Program Grant for improvements to the town court requires the town to have a resolution in writing postmarked no later than 10/13/09, approving the grant request.

MOTION #143 OF 2009

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. THOMAS THE TOWN BOARD APPROVED THE GRANT REQUEST APPLICATION OF THE TOWN COURT FOR GRANT FUNDING FROM THE NYS UNIFIED COURT SYSTEM, JUSTICE COURT ASSISTANCE PROGRAM IN THE AMOUNT OF \$5,745.66. THE MOTION WAS CARRIED UNANIMOUSLY.

BRAD LAWSON, ZONING C.E.O.

Mr. Lawson said the number of building/zoning applications is about the same as it was this time last year. He said the Connolly permit is a renewal of a permit issued in 2008. He said he is working on the existing violation on Carpenter-Pringle Road and there is another located on that road that he will address. He said the Southern Tier Building Officials Assoc. is investigating having the next 24 hour training program in our county. He said the two other associations that hold them are experiencing high volume of attendees and last year he had not been able to get a space in the FLBOA classes in Rochester. He said he is having to attend classes wherever he can get them and is about 2 classes away from the 24 hours required.

Mrs. Carlson asked if Southern Tier West could be of assistance with these types of classes.

Mr. Lawson said they do provide some training (Zoning/Planning) which he would get credit for, but most of the programs put on by the associations are free to the code officials because it is through NYS. He mentioned a possible location of Chautauqua Suites for the program.

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DAVE LLOYD, STORM WATER PLANNING

Mr. Lloyd said CLMC funding from the 2% bed tax grants has been received (\$10,000 for Cheney Creek and \$9,543.75 for Stow Area projects) and will be reimbursed to the Highway Fund. He said contracts that should have been signed in April have just been received and signed in September. He said the county is willing to extend the contracts into 2010 if the projects are started in 2009. He said he realizes this puts a strain on the resources of the highway just before winter, but they would like to see the projects at least started before 2010. He said the water treatment system has been ordered and will be shipped to the Highway this week.

Mr. Ryan said it has arrived. He said when he is finished on Diffley Road he will start the project.

Mr. Lloyd said Mr. Ryan needs to contact Mr. Tolman, Mr. Constantino and Mr. Wilson when he is ready to start. He said he has spoken to Mr. Gould and would like to start working on plans for a possible engineered retention wetland at the Butts Road Park. He said such a system would help curtail a lot of run off water from reaching the lake shore and provide excellent habitat. He said NYS FEMA has started a new grant application system in which an application for hazard mitigation funding would be forwarded to another category of funding without having to reapply, if it does not meet the exact criteria for funding in the first application. He said this might help with the Ashville projects. Mr. Lloyd said he would be talking more with Mr. Leone about this.

NANCY THOMAS, TOWN CLERK (copy in Minute Book)

Mrs. Thomas said she had nothing further to add to her written report.

- MOTION #144 OF 2009
ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, THE TOWN CLERKS REPORT WAS ACCEPTED AND THE MOTION WAS CARRIED UNANIMOUSLY.

SALLY P. CARLSON, SUPERVISOR: (copy in Minute Book)

MOTION #145 OF 2009

MR. STOW MOTIONED THAT THE SUPERVISOR'S REPORT BE ACCEPTED AS PRESENTED. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

MOTION #146 OF 2009

MR. WHITNEY MOTIONED TO PAY THE GENERAL FUND BILLS AS AUDITED AND REVIEWED EARLIER. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

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MOTION #147 OF 2009

MR. WHITNEY MOTIONED TO PAY THE HIGHWAY FUND BILLS AS AUDITED AND REVIEWED EARLIER. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

MOTION #148 OF 2009

MR. STOW MOTIONED FOR ADJOURNMENT AT 9:15 PM. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Nancy Thomas
Town Clerk