

**TOWN OF ABINGDON
REGULAR COUNCIL MEETING
MONDAY, SEPTEMBER 8, 2008
COUNCIL CHAMBERS - MUNICIPAL BUILDING**

A Regular meeting of the Abingdon Town Council was held on Monday, September 8, 2008 at 7:30 p.m. in the Council chambers of the Municipal Building.

A. ROLL CALL

Members of Council Present:

Mayor Lois H. Humphreys
Edward B. Morgan, Vice Mayor
Dr. French H. Moore, Jr.
Mrs. Cathy Lowe
Mr. Jason N. Berry

Administrative/Town Staff:

Gregory W. Kelly, Town Manager
Cecile M. Rosenbaum, Town Clerk
Mark Godbey, Town Treasurer/Dir. Of Finance
Jim Smith, Dir. Of Wastewater Operations/Town Eng.
Garrett Jackson, Dir. Of Planning
Officer Holbrook, Police Department
Chris Johnson, Dir. Of Parks and Recreation
Myra Cook, Dir. Of Tourism
Jim Cowart, Dir. Of Econ. Dev/Grants Writer
John Dew, Dir. Of Public Services/Construction
Sean Taylor, Assistant Planner
Rob Case, Information Technology Dept.

Visitors:

Emmitt Yeary, Lee Saunders, Col. John Bradley,
MaryAnn Holbrook, Sam/Jan Hurt, Tom Peterson,
Anthony Flaccavento, Rosa Balthazrr, Mike Owens,
Debra McCown, Dr. Glenn Harrison, Carolyn Lee,
Stephanie Lavesque and others.

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The Mayor welcomed everyone in attendance.

**B. PLEDGE OF ALLEGIANCE**

Lee Saunders, representative from Veterans Memorial Park, led the Pledge of Allegiance.

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C. APPROVAL OF MINUTES

- August 4, 2008 Work Session Meeting
- August 4, 2008 Regular Council Meeting
- August 26, 2008 Special Called Meeting – Town Hall
- August 26, 2008 Joint Meeting with Board of Supervisors – County Offices
- August 26, 2008 Executive Session Meeting – County Offices

On motion of Mrs. Lowe, seconded by Mr. Berry, the Council approved the minutes of the August 4, 2008 Work Session, the August 4, 2008 regular meeting, the August 26, 2008 Special Called Meeting at Town Hall, the August 26, 2008 Joint meeting with the Board of Supervisors at the county offices, and the August 26, 2008 Executive Session meeting at the county offices as presented.

The roll call vote was as follows:

Mrs. Lowe	Aye
Mr. Morgan	Aye
Dr. Moore	Aye
Mr. Berry	Aye
Mayor Humphreys	Aye

The motion carried.

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### D. PETITIONS AND PUBLIC HEARINGS

- 1. Public Hearing** - Appeal of decision of Board of Architectural Review meeting held on July 2, 2008 regarding the neglect to follow certificate of appropriateness procedures at property owned by Dr. Glenn Harrison, Tenant is G.E. “Chip” Barker, Attorney at Law and whose representative is Blue Ridge Chiropractic Office, Dr. Daniel Levesque, 212 Valley Street, Abingdon, Virginia Tax Map No. 13(1)38, Lot #64.

Mayor Humphreys declared the public hearing open for comment. Thereafter, Garrett Jackson, Director of Planning came forward and introduced Mike Owens, member of the Board of Architectural Review, who was present to answer questions that the Council may have.

Mr. Morgan asked Mr. Jackson to present a brief history of the matter. Mr. Jackson noted that on June 26, 2008 his department was notified that a structure at 212 Valley Street was having vinyl siding added to the outside and inquired if a certificate of appropriateness had been obtained. Mr. Jackson said he visited the property and spoke with the contractor and informed him that because a COA had not been issued that he would be receiving a stop work order. Mr. Jackson said he prepared the notice and it was given to the contractor, the tenant Attorney Chip

Barker and to Blue Ridge Chiropractic and sent a copy to Dr. Harrison. Mr. Jackson noted that the contractor continued to work on the structure after the stop work order had been issued.

Thereafter, Dr. Glenn Harrison, 2951 W. Front Street, Richlands, Virginia, property owner, and Stephanie LaVesque, of 212 Valley Street, Abingdon, daughter-in-law of Dr. Harrison, appeared before the Council regarding his appeal of a decision of the Board of Architectural Review meeting held on July 2, 2008. Dr. Harrison indicated that the property he owns was rental property that he received \$850.00 per month in rental fees. He said he realized that the structure underneath was beginning to deteriorate due to water damage and he put out a notice for bids for painting work to be done. He indicated that the prices for the work were high so he considered looking for a more economical avenue to repair the home. Dr. Harrison said that there were no gutters on the sides of the house and this factor contributed to the water deterioration. At this time, Dr. Harrison and Mrs. LaVesque informed the Council that they learned that their matter was on the Council agenda when they spoke with Mr. Morgan who had come by to view the property prior to the Council meeting. They said they called Mr. Jackson first thing Monday morning and he confirmed that their matter was on the agenda. Dr. Harrison also indicated that Mr. Jackson spoke with him that day and informed him he needed to pay for the advertising costs of the required public hearing notice and he indicated that he had brought the full payment with him to the meeting. Mr. Morgan asked if he wanted to proceed with the hearing or if he needed more time and he replied he was prepared to proceed.

At this time, Mr. Morgan inquired about the stop work order that was issued against the property and questioned Dr. Harrison about the contractor and his classification that he hired for the repair work and inquired if he was licensed to do business in the Town of Abingdon. Dr. Harrison said the contractor was from Chilhowie and was fairly certain that he had a Class A contractor's license. Mr. Morgan questioned whether the contractor was familiar with the approved materials that could be used in the historic district.

Mike Owens, member of the Board of Architectural Review, appeared before the Council to speak to the reasoning the BAR used to deny Dr. Harrison's appeal of a Certificate of Appropriateness. Mr. Owens quoted the guidelines the BAR uses in considering requests and they specifically prohibit the use of vinyl siding on a structure in the historic district.

Dr. Harrison commented that he did not feel that replacing the vinyl siding with the approved wood siding would not work for this project. Mrs. LaVesque commented that she had counted and there are eighteen (18) homes in the historic district with vinyl siding.

Mr. Jackson noted that minutes from a prior BAR meeting in 1995 showed that Dr. Harrison had been denied vinyl siding in the past.

At this time the Mayor asked if anyone from the audience wished to speak to the matter and Jan Hurt of 247 Valley Street, Abingdon, appeared before the Council to comment she lives in the historic district is aware that vinyl siding is not an accepted material for use on homes. She asked that the Council affirm the decision of the BAR.

Mrs. Lowe commented that she was sympathetic to Dr. Harrison's situation but felt that the Council was obligated to uphold the decision of the BAR because the guidelines that are in place are very clear about vinyl siding not being an approved material for the historic district and further that the Council could not make an exception for one individual.

**On motion of Mr. Morgan, seconded by Mrs. Lowe, and based on the recommendation of the Town Attorney, the Council affirmed the decision of the Board of Architectural Review and directed Dr. Harrison to remove the vinyl siding within thirty (30) days of the September 8, 2008 meeting date and request a certificate of appropriateness to repair the structure with a material that is approved by the Board of Architectural Review and further that after said thirty (30) days have expired if the approved repairs have not been made, that a \$250.00 per day fine will be imposed against the property owner.**

The roll call vote was as follows:

|                 |     |
|-----------------|-----|
| Mrs. Lowe       | Aye |
| Mr. Morgan      | Aye |
| Dr. Moore       | Aye |
| Mr. Berry       | Aye |
| Mayor Humphreys | Aye |

The motion carried.

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2. Public Hearing – Special Use Permit – Aaron C. Hicks, application for Special Use Permit pursuant to Article 2, Section 5-2-2 Special Uses, Zoning Ordinance, in the R-2 Residential District of the Town of Abingdon, to operate a small barbeque catering business at 1142 Panorama Drive, Abingdon, VA. Tax Map No. 106E(1)36.

Garrett Jackson, Director of Planning, appeared before the Council and informed the members that Mr. Hicks was not present at tonight's meeting but he had been present when his request was before the Planning Commission. Mr. Jackson informed the Council that Mr. Hicks would prepare food at his location but it would be for off-site catering events. He indicated that the adjoining property owners were not opposed to the special use permit and that the neighbors were very supportive of Mr. Hicks.

On motion of Dr. Moore, seconded by Mr. Berry, the Council approved the special use permit for Aaron C. Hicks, 11421 Panorama Drive, Abingdon, VA, Tax Map #106E(1)36, pursuant to Article 2, Section 5-2-2 Special Uses, Zoning Ordinance, in the R-2 Residential District of the Town of Abingdon so that he may operate and small barbeque catering business.

The roll call vote was as follows:

Mrs. Lowe	Aye
Mr. Morgan	Aye
Dr. Moore	Aye
Mr. Berry	Aye
Mayor Humphreys	Aye

The motion carried.

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**E. CONSIDERATION OF ANY BIDS – NONE**

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F. REPORTS FROM THE TOWN MANAGER

1. Request of funding from Heartwood: Southwest Virginia’s Artisan Gateway.

Mr. Kelly, Town Manager, explained to the Council members that the Council had committed to an investment of \$500,000 to the Artisan Center project on September 12, 2005 and that a request for that funding had now come in. Mr. Kelly recommended that Council appropriate \$250,000 in the 2008/2009 budget year and then take up the remaining \$250,000 in the 2009/2010 budget year.

On motion of Mrs. Lowe, seconded by Dr. Moore, the Council agreed to begin payments on the previously committed investment for the Heartwood project and allocated and directed that \$250,000 to be paid out in the 2008/2009 budget year from the Town’s reserves in quarterly installments, with the remaining \$250,000 to be allocated and paid in the 2009/2010 budget year.

The roll call vote was as follows:

Mrs. Lowe	Aye
Mr. Morgan	Aye
Dr. Moore	Aye
Mr. Berry	Aye
Mayor Humphreys	Aye

The motion carried.

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**2. Presentation and update on the Abingdon Farmer’s Market.**

Anthony Flaccavento from Appalachian Sustainable Development appeared before the Council members and provided a power point presentation on the Abingdon Farmer’s Market. Mr. Flaccavento informed the Council of results from a survey that had been conducted at the market and commented that the Abingdon market is a leader in the region. Mr. Flaccavento said that July and

August had proven to be the peak months of operation and that almost every vendor space was filled for the Market.

Mr. Morgan commented that the Abingdon Market had proven itself to be a worthy investment for the Town.

No action was required by Council on this agenda item.

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3. Request for funding from Barter Theatre and Washington County Public Library for “The Big Read Program”.

Mary Ann Holbrook, Director of Development for Barter Theatre, appeared before the Council members to ask for an allocation of \$1,000 in support of this year’s “Big Read” Program. Ms. Holbrook indicated that this year’s book selection is “The Heart is a Lonely Hunter” by Carson McCuller and that the program kickoff is scheduled for February 2009.

On motion of Mr. Berry, seconded by Dr. Moore, the Council appropriated \$1,000 in funding for support of the “Big Read” program.

The roll call vote was as follows:

Mrs. Lowe	Aye
Mr. Morgan	Aye
Dr. Moore	Aye
Mr. Berry	Aye
Mayor Humphreys	Aye

The motion carried.

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**4. Vacation of a portion of a recorded plat – Greystone Heights Subdivision; Emmitt Yearly, Representative, Lots 33 and 34 of Greystone Heights Subdivision, pursuant to Section 11.1, Article XI of the Code of the Town of Abingdon and Section 15.2 of the Code of Virginia, 1950, as amended.**

Garrett Jackson, Director of Planning, appeared before Council to provide information about the request for vacation of a portion of a recorded plat in Greystone Heights Subdivision. Mr. Jackson indicated that this vacation had no adverse effect on adjoining property owners, no opposition had been noted by the property owners and the owners of the Lot 33 and 34 were both in agreement to vacate the recorded plat relative to those lots. Mr. Jackson further advised that the Planning Commission had recommended the approval of the request.

**On motion of Dr. Moore, seconded by Mrs. Lowe, the Council approved the vacation of the recorded plat insofar as it related to Lots 33 and 34 of Greystone Heights Subdivision.**

**The roll call vote was as follows:**

|                        |            |
|------------------------|------------|
| <b>Mrs. Lowe</b>       | <b>Aye</b> |
| <b>Mr. Morgan</b>      | <b>Aye</b> |
| <b>Dr. Moore</b>       | <b>Aye</b> |
| <b>Mr. Berry</b>       | <b>Aye</b> |
| <b>Mayor Humphreys</b> | <b>Aye</b> |

**The motion carried.**

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5. Update on Veteran's Memorial Park Foundation.

Col. John Bradley, representative of the Veterans Memorial Park Foundation, appeared before the Council members with a power point presentation, with an update and status on the development of a Master Plan for the Park. Col. Bradley provided information about each phase of the Plan and elaborated on the overall vision of the Foundation for the Park.

Mr. Morgan inquired if Plan had been submitted for review to the Tree Commission as well as the Recreation Advisory Commission and commented that he hoped the final name for the Park would be Veteran's Memorial Park and Arboretum. Mrs. Lowe commented that it will also come before the Planning Commission for review.

No action was required by the Council on this matter.

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**6. Consideration of Appointments of one (1) Council Member and four (4) members from the Public At Large to the Town of Abingdon "Go Green" Initiative Committee.**

At Council members' request, this agenda item was postponed until later in the meeting.

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G. PASSAGE OF RESOLUTIONS

1. A Resolution of the Council of the Town of Abingdon to establish an official civic friendship with Abingdon-on-Thames, Oxfordshire, United Kingdom.

On Motion of Dr. Moore, seconded by Mr. Berry, the Council adopted the following Resolution:

WHEREAS, the Town of Abingdon, Virginia was created by an official Act of the General Assembly on October 7, 1778; and

WHEREAS, the Town of Abingdon, Virginia has maintained an unofficial friendship link for many years with Abingdon-on-Thames; and

WHEREAS, the Mayor and Town Clerk of Abingdon-on-Thames, on the occasion of the 450th Anniversary of the Granting of the 1556 Royal Charter, presented Mayor Lois Humphreys with a Certificate of Reaffirmation of Friendship as a tangible form of appreciation of its determination to continue and to develop its Friendship with the Town of Abingdon, Virginia; and

WHEREAS, at a meeting of the Council, held in its Chambers on the 8th day of September 2008 it was Unanimously Resolved that as part of its celebrations on the occasion of the 230th Anniversary of the Act of Establishment of the Town of Abingdon of 1778, this Council pledges its efforts in establishing an Official Civic Friendship with Abingdon-on-Thames, Oxfordshire, United Kingdom; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Abingdon, Virginia, does hereby establish an official civic friendship, acknowledging its existence through the years past and those to come and welcomes the Mayor, Councilors, Freedmen and Citizens of Abingdon-on-Thames to join us in the establishment of this friendship and other civic ceremonies, now and in the future.

The roll call vote was as follows:

Mrs. Lowe	Aye
Mr. Morgan	Aye
Dr. Moore	Aye
Mr. Berry	Aye
Mayor Humphreys	Aye

The motion carried.

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At this time Dr. Moore reminded everyone that Abingdon is expecting visitors from our Twin Town of Abingdon, England and they will be here from evening of September 30<sup>th</sup> through October 6<sup>th</sup>.

## **H. FIRST READING OF ORDINANCES**

### **1. An Ordinance To Repeal, Amend And Reenact Part II Code, Chapter 2 Administration, Article VI Planning Commission, Division 4 Meetings And Voting, Section 2-376(A) Regular Meetings Of The Code Of The Town Of Abingdon, Virginia.**

Mr. Kelly, Town Manager, informed the Council that the Planning Commission had recommended that they move their meeting time from 7:00 p.m. to 5:30 p.m. in case they needed to attend County Planning meetings. He further explained that in order to enact



this change, it must be done by way of an Ordinance and the ordinance before them for consideration was for that purpose.

**On motion of Dr. Moore, seconded by Mr. Morgan, the Council approved the Ordinance to Repeal, Amend And Reenact Part II Code, Chapter 2 Administration, Article VI Planning Commission, Division 4 Meetings And Voting, Section 2-376(A) Regular Meetings of the Code of the Town of Abingdon, Virginia and asked that it be enacted on first reading dispensing with the second reading.**

**The roll call vote was as follows:**

|                        |            |
|------------------------|------------|
| <b>Mrs. Lowe</b>       | <b>Aye</b> |
| <b>Mr. Morgan</b>      | <b>Aye</b> |
| <b>Dr. Moore</b>       | <b>Aye</b> |
| <b>Mr. Berry</b>       | <b>Aye</b> |
| <b>Mayor Humphreys</b> | <b>Aye</b> |

**The motion carried.**

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I. SECOND READING OF ORDINANCES - NONE

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**J. OLD BUSINESS – NONE**

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K. MATTERS NOT ON THE AGENDA

- Rosa Balthazrr of 341 Wiley Street, Abingdon, VA appeared before the Council members to inquire about property on Leonard Street in the Taylor's Hill Subdivision. Ms. Balthazrr claimed that she purchased property on Leonard Street adjacent to property owned by the Town of Abingdon and has been told that she is encroaching on the Town's lot. Ms. Balthazrr asked the Council members if they could help her get resolution to her property issue. She contended that she owns a lot that the Town contends it acquired during the Taylor's Hill Redevelopment project.

Mr. Kelly, Town Manager, responded that he was aware of Ms. Balthazrr's situation and that she was represented by legal Counsel who had been working with her to try to resolve this issue.

Mr. Morgan and Mrs. Lowe requested a report from the Town Manager regarding the issue and Mr. Kelly indicated that a confidential legal memorandum would be submitted to Council before the next Council meeting.

- Michael McGarry of 371 Augusta Drive, Abingdon, and a representative of Abingdon High School inquired if the High School could hold a parade during their homecoming week to celebrate the 50th Anniversary of Abingdon High School.

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#### **L. COUNCIL MEMBER REPORTS**

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M. MISCELLANEOUS BUSINESS AND COMMUNICATIONS

At this time, on motion of Mrs. Lowe, seconded by Mr. Morgan, the Council voted to go into executive session pursuant to the Code of Virginia, 1950, as amended, Section 2.2-3711(A)(1) to consider appointments to the Recreation Advisory Commission and the Tree Commission and further pursuant to the Code of Virginia, 1950, as amended, Section 2.2-3711(A)(3) to consider the acquisition of real property for a public purpose, namely a joint Town/County sports complex.

The roll call vote was:

Mrs. Lowe	Aye
Mr. Berry	Aye
Dr. Moore	Aye
Mr. Morgan	Aye
Mayor Humphreys	Aye

The motion carried.

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**On motion of Mrs. Lowe, seconded by Dr. Moore, the Council reconvened in regular session.**

**The roll call vote was:**

|                   |            |
|-------------------|------------|
| <b>Mrs. Lowe</b>  | <b>Aye</b> |
| <b>Mr. Berry</b>  | <b>Aye</b> |
| <b>Dr. Moore</b>  | <b>Aye</b> |
| <b>Mr. Morgan</b> | <b>Aye</b> |

**Mayor Humphreys Aye**

**The motion carried.**

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After Council reconvened into regular session, the following certification was adopted:

***WHEREAS**, the Council of the Town of Abingdon, Virginia has convened in a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions set forth in the Virginia Freedom of Information Act; and*

***WHEREAS**, Sec. 2.2-3712(D) of the Code of Virginia, 1950, as amended, requires a certification by the Town Council that such closed meeting was conducted in conformity with Virginia law; and*

***NOW THEREFORE**, be it resolved, that the Council of the Town of Abingdon, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from an open meeting requirement by Virginia law were discussed in closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.*

The certification was as follows:

Mrs. Lowe	I so certify
Mr. Morgan	I so certify
Dr. Moore	I so certify
Mr. Berry	I so certify
Mayor Humphreys	I so certify

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**On motion of Dr. Moore, seconded by Mr. Berry, the Council made the following appointments to the "Go Green" Committee:**

- **Ed Morgan – Council Representative**
- **Betty Edmiston – Public At Large**
- **Frank Forrest – Public At Large**
- **Mike Ostrosky – Public At Large**
- **Tom McMullen - Public At Large**

**The roll call vote was:**

|                   |            |
|-------------------|------------|
| <b>Mrs. Lowe</b>  | <b>Aye</b> |
| <b>Mr. Morgan</b> | <b>Aye</b> |

**Dr. Moore**            **Aye**  
**Mr. Berry**           **Aye**  
**Mayor Humphreys** **Aye**

**The motion carried.**

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On motion of Mr. Morgan, seconded by Dr. Moore, the Council appointed Bob Howard and Monty Vernon to the Tree Commission and their appointments are four (4) year terms and will expire on September 11, 2011.

The roll call vote was:

Mrs. Lowe **Aye**
Mr. Morgan **Aye**
Dr. Moore **Aye**
Mr. Berry **Aye**
Mayor Humphreys **Aye**

The motion carried.

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**On motion of Mrs. Lowe, seconded by Mr. Morgan, the Council appointed Dr. Moore to his second term and Courtney Berry to her first term to the Recreation Advisory Commission and said terms are for five (5) years and will expire on September 8, 2013.**

**The roll call vote was:**

**Mrs. Lowe**            **Aye**  
**Mr. Morgan**         **Aye**  
**Dr. Moore**           **Aye**  
**Mr. Berry**           **Aye**  
**Mayor Humphreys** **Aye**

**The motion carried.**

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On motion of Mr. Morgan, seconded by Dr. Moore, the Council requested that the Washington County Board of Supervisors respond on record to the Council's proposal made on August 26, 2008 regarding the Joint Town/County Sports Complex before the Council will consider any further action on the matter.

The roll call vote was:

Mrs. Lowe **Aye**
Mr. Morgan **Aye**

Dr. Moore **Aye**
Mr. Berry **Aye**
Mayor Humphreys **Aye**

The motion carried.

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**On motion of Mrs. Lowe, seconded by Mr. Berry, the meeting was adjourned.**

**The roll call vote was:**

**Mrs. Lowe**            **Aye**  
**Mr. Morgan**        **Aye**  
**Dr. Moore**           **Aye**  
**Mr. Berry**           **Aye**  
**Mayor Humphreys** **Aye**

**The motion carried.**

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Lois H. Humphreys, Mayor

Cecile M. Rosenbaum, Town Clerk