



TOWN OF SURFSIDE BEACH
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**TOWN COUNCIL SPECIAL MEETING
COUNCIL CHAMBERS
FRIDAY, JULY 12, 2013 ♦ 3:00 P.M.**

A G E N D A

1. **CALL TO ORDER** – Mayor Douglas F. Samples
2. **PUBLIC COMMENTS – AGENDA ITEMS**
3. **BUSINESS**
 - A. Resolution #13-138 to allow canoes, paddle boats, and manpowered boats on town lakes and to prohibit all motorized water vehicles and any other type of boat on Town Lakes
 - B. Second Reading of Ordinance #13-0751 to allow Docks on Town Lakes
4. **ADJOURNMENT**



**SURFSIDE BEACH TOWN COUNCIL
SPECIAL COUNCIL MEETING MINUTES
JULY 12, 2013 ♦ 3:00 P.M.
TOWN COUNCIL CHAMBERS**

1. CALL TO ORDER.

Mayor Samples called the special meeting to order at 3:00 p.m. Mayor Samples, Mayor Pro Tempore Mabry, and Councilmembers Johnson, and Kohlmann were in attendance. Councilmembers Dodge, Smith and Stevens were absent. A quorum was present. Others present: Administrator Fellner, Planning Director Morris, Public Works Director Adair, and Town Clerk Herrmann.

2. PUBLIC COMMENTS – AGENDA ITEMS. (3 minutes).

"I hope I still know how to do this microphone. For the councilmembers, you know me. My name is Anita S. Hopkins, 712 Cedar Drive North. The reason I am here today is to address Lake Elizabeth and Dogwood Lake, and any impacts, and anything that might be, be [sic] being considered to have additional impact on Lake Elizabeth, and what I mean by any impact is encroachment, it's intrusion, anything that would alter Lake Elizabeth from where it is as of the contract on 20 (**), 2001, January the 11th. Under this contract, and I just talked with Steve Gosnell on the phone at 2:30, and he said that a resolution was sent to him and he reviewed it, and he sent it back to the town administrator stating that he didn't see any problem with the dock or whatever they wanted to build down on Dogwood Lake for someone. I don't the gentleman that wants it or the family, but I would say this, that anything that is put into Lake Elizabeth at this point causes the lake to stop flowing and according to what Steve Gosnell is sending me in the mail, and I should have it Monday or Tuesday, is that he has no problem with what we do in this town. He has no jurisdiction. But, and here's the, here's the sticking point, 100-percent of the maintenance and the destruction that we create, and if we put anything in there in Lake Elizabeth other than what it is now, we are 100-percent as the town of Surfside responsible for it, and not only that, we are responsible for an additional 30-percent according to this contract for stormwater. So, 30-percent's bad; we got off light. We didn't pay anything for the million-plus dollars worth of work that took place from, from Business 17 to, to the end of Dogwood Lake. We came out clear. We have nothing on our taxes that says we owe anything to stormwater in the county. The county and the state took care of it. Now, if we go and we fill up our lakes with docks and boats, and we can also take a boat and put it inside and prepare ourselves, but we can't roll up a dock and stick it in and secure it from a major storm, and you know, we've got piers [sic] that go in that Atlantic Ocean that can be taken out. Now, the Hardwick family lost a paddle boat one time that got stuck in the weir, and it started backing it up and it doesn't take but moments for that lake to rise. (*Time ended.*) If you impact anything; you got it. I'll be back."

"Ron Ott, 7th Avenue North. I know it's a fact about, and you can check with Nelson Hardwick, where his, it was actually a paddle, paddle boat that got caught in there, and Bobby Radford, even with the backhoe, they tried to get it. It was jammed in the weir. The water started backing up. Within an hour it was almost over seven foot in there, and you can call Bobby or Mr. Nelson there. You can check with them. That's all it takes. Now, imagine if we had a regular storm and what Gosnell's telling you, yeah, yeah, no problem with it, and when he comes down and sees that jammed up, he's gonna say, sayonara; 100-percent for Surfside. You got all the damage that's caused by this water; hope it was worth is. Thank you."

"Holly Watson, 319 North Oak Drive. I called FEMA today along with several other people. FEMA told me today that if the boats and the docks stop up the weir like Mr. Hardwick's previously did and the torrential flood that happens after we fish all this debris out of the weir, when that flooding occurs, they're not responsible. They will not pay or respond to any drainage claims. That means that anybody downstream from Lake Elizabeth, if anything happens to Lake Elizabeth, my property floods, FEMA's not gonna reimbursement me. They're not gonna pay me. What do I do, all because somebody upstream needs a dock? I'm not alone. You all are supposed to be representing our interests, the general public."

56 Not one or two property owners that decide they want a dock on the lake. That's just unacceptable to me.
57 I worked hard for my home. That represents all my life. That's just unacceptable. My constitutional rights
58 are being violated here, if you pass this thing. Think about this, not just me, anybody downstream and
59 you know it flows from north to south, so anybody south of Lake Elizabeth and Dogwood Lake will be
60 affected, because all the drainage ditches and everything come out of that, too. Now, according to the
61 Municipal Association about this particular matter, the question remains that we do not know what
62 happens if a person dives into these lakes. We don't know if there're stumps in there. We don't know
63 what chemicals are in. We don't know what the toxicity levels are, and the worst part of it is we're missing
64 a million dollars of our stormwater money, so we will never be able to test for it, because we don't have
65 the money. So, we're up a creek without a paddle; yeah. I wanna know since I feel like my
66 constitutional rights are being violated here, because I am downstream of where all these are going to be
67 taking place, evidently, what happens to a handicapped person or the rest of the general public? Where
68 are you gonna put your public boat launch areas so the rest of the public can use our town-owned lakes,
69 not just these particular people that surround the lakes. From what I've seen, the general public is fenced
70 out. They're, that's not acceptable, though. If you're gonna have it open to private owners, then have it
71 open to the public. It is a public lake, and of course, along with that goes all the handicapped ramps, the
72 cleanup, the extra patrol, that type thing that goes with it. If not, then somebody else's constitutional
73 rights are gonna be violated, because you're not opening it up to the general public for recreational use. I
74 don't think we've thought about all that. The fact that we're here at three p.m. on Friday afternoon; we
75 just had a council meeting Tuesday, makes me wonder just exactly whose interest are being represented
76 (*Time ended.*) here. Please search your moral compass to that answer. Thank you."
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78 Ms. Lowery: "I'm always here." Mayor Samples apologized for the informal address. Ms.
79 Lowery: "That's quite all right. Betty Lowery, 619 4th Avenue North. I was in a rush Tuesday night to get
80 everything in, so a couple of things... I don't have an issue with lakeside decks. You know, if somebody
81 wants to build a little platform there and they can sit out and just look at the water, I don't have an issue
82 with that. I do have an issue with some sort of a dock that actually goes into the water, and I think a lot of
83 it is a mindset. They look so nice, thanks to public work, works, and there're houses right on 'em, and we
84 call 'em lakes, and I think that mind set has led us to view them that way instead of what their actual
85 purpose is. If someone puts a 12 by 12 dock, and I'm going to refer to dock as being something you're
86 gonna put a boat on in the water, if they put that out there, there's no way on God's green earth they're
87 gonna be able to haul those things in, in a storm. It's just not gonna happen. They can't do it. We just
88 can't afford to have anything actually out in the water. As far as boats and things are concerned,
89 hallelujah! (*Speaker's emphasis*) Nothing other than man powered. But, still like with the paddle boats
90 that can get some good size on it there, and we may want to evaluate that. I don't know if what you have
91 there limits the length of the boats. You're looking at canoes, kayaks; I don't know that anybody would
92 want to put a paddle board out there, but nothing with electric or gas motor. If they're gonna put
93 something in that's fine. Also, there was a gentleman who said if they put a deck there, and he doesn't
94 have anywhere to put his boat, how's he gonna get his boat in the water. If the lot has a 30-foot front, the
95 width of the deck can only be 12 feet. That gives him 18 feet, if he wants to try to slide a canoe in from
96 some other section of (**). Not having a dock or a floating dock is not going to preempt him from putting a
97 boat in the water. We have that area at the end of Nelson's house; not the one with the fence, but on the
98 other side. People are always going in there. They're fishing there. You know, they can slide a canoe in.
99 I don't know, I'm not in favor of putting boats out there at all, except for maybe what Mr. Adair has to use
100 for servicing, but if it's gonna happen, we really need to be able to put a lid on it. But, please, please
101 consider rescinding the floating dock aspect of it. That is a can of worms. I mean, that's where all the
102 changes had to come in. That's where all the flexibility had to be. Lake side deck, pond side deck, a side
103 deck, you know, no issues there that will interfere with anything. But, putting a dock out that's whole
104 nother [sic] issue, you know putting something in that water that's gonna float, and float away. (*Time*
105 *ended.*)"
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107 "Al Lauer, 124 Harbor Lights Drive. I look at it this way, to put anything else into the water makes
108 no good sense, and I would leave it at that. We know that the water is polluted. We aren't testing it
109 enough. We don't know that, I guess, for a 100-percent certainty, but I think we all know that that water is
110 polluted. To keep people away from it, out of that water, is probably in everybody's best interest. I
111 appreciate how pretty it looks to be on that lake or that retention basin, but it just doesn't make any good

112 sense to put people close to it, in it. Now, sitting on a deck, I think is fine, but otherwise, it just doesn't
113 make good sense."

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115 "Sandra Elliott, 5th Avenue North. I am also opposed to all types of decks out there, mainly
116 because of the pollution, and I'm also opposed to the resolution which is stating what can go into the
117 water, when we know it's polluted to begin with. So, we're saying okay, go in the water with your canoe,
118 but we know people are doing it now, but we're giving a blessing. Go ahead, go in there and fish, and if
119 your arm falls off in a month, that's okay."

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121 Mayor Samples said before the business items were taken up he was compelled to mention that
122 all councilmembers were contacted with the exception of Mr. Stevens, who was on vacation with his
123 family. Mr. Stevens made Town Council aware earlier in the week that he would not be available,
124 because of personal commitments. Ms. Dodge and Mr. Smith were contacted yesterday. The meeting
125 time was established with their input, and only after noon today was he advised that they would be unable
126 to attend. Mayor Samples expressed appreciation to the members whom attended so that there was, in
127 fact, a legal quorum, which allowed them to conduct business. Having served 11 years, and having
128 talked to other members who served long before he began serving, Mayor Samples said Town Council
129 had never had trouble conducting business, because of members not showing up for meetings. He
130 reiterated appreciation for those members that attended, and said he did not know how the vote would
131 turn out, but at least members were present to express their opinions, make their position known, so that
132 the town could conduct business. Mayor Samples said in his opinion, it was unseemly of elected
133 members to not to attend meetings when they had already committed to attend.

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135 **3. BUSINESS.**

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137 Mayor Samples said if there was no objection, he would like to address Item B, Second Reading
138 of Ordinance #13-0751 to allow docks on Town Lakes before addressing the resolution. There were no
139 objections.

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141 **B. Second Reading of Ordinance #13-0751 to allow docks on Town Lakes.**

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143 Ms. Mabry moved to adopt second reading of Ordinance #13-0751 with an amendment to delete
144 Section 17-417 Docks and Section 17-418 Violations in their entirety, and to substitute the following as
145 Section 17-417: *All docks are hereby prohibited on the town stormwater retention ponds, also known as*
146 *"town lakes". Existing docks shall be considered existing non-conforming uses and shall not be allowed*
147 *to be rebuilt or replaced should the dock be damaged or become unsafe.* Ms. Kohlmann seconded.

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149 Mayor Samples said asked how the motion impacted first reading.

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151 Ms. Mabry said it would substitute the new language for Section 17-417, docks. The current 17-
152 417 and Section 17-418 would be omitted.

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154 Ms. Morris said this was discussed with the town attorney who said that 17-417 could be
155 amended as stated by Ms. Mabry and that Section 17-418 would no longer be required, and Town
156 Council could continue on with second reading. Ms. Mabry's amendment would replace the proposed
157 wording as adopted at first reading, but it would constitute second reading.

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159 Mr. Johnson asked for clarification if the amendment would replace 17-417 and 17-418. Ms.
160 Morris said that was correct. The amendment language would appear in the final ordinance as 17-417
161 under docks, and 17-418 violations and remedies would be removed because docks were not allowed at
162 all.

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164 Ms. Kohlmann asked what happened to existing docks if this amendment was adopted; if an
165 existing dock created a violation would the code not need to include what the violation was. Ms. Morris
166 said in Chapter 17 includes the exact wording that was proposed for 17-418, so there was a code to
167 apply. Ms. Kohlmann asked if violations code had to be specific to docks. Ms. Morris said it did not.

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Mayor Samples said the town had done wonders with the stormwater ponds over the last decade. The fact of the matter was that the town did not acquire ownership of the larger lakes until the early 2000s. Prior to then, they were privately owned. They weren't maintained, and the town desired to take possession of the ponds so that they could provide some maintenance. Mayor Samples said they were called lakes, but those who had been here knew they were nothing more than stormwater retention ponds. Those who were here recall when the lakes were lower before the county stormwater project was done and the town agreed to take more stormwater flow on from the county. He was talking specifically in this instance about Dogwood Lake. The bottom of the pond was not level. There were old coquina pits that filled up. To begin with they were unsafe for recreational use on that basis. The fact of the matter was that the town knew there were all types of pollutants in the ponds, because by their very nature they were stormwater runoff retention ponds. He asked Mr. Adair, who was not working for the town at that time, but was now responsible for maintaining the lakes to describe the maintenance process and chemicals used to keep them aesthetically pleasing, but they were not something he would recommend people use for recreation.

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Mr. Adair said his job was primarily concerned with maintaining proper water flow in the lakes. Water quality was a huge part of what the department did, as did any municipality on the coast, subject to NPDES (National Pollutant Discharge Elimination System) regulations, which was hugely concerned with water quality. Mr. Adair shared photographs taken in 2008, copies of which are on file, showing the condition of Dogwood Lake and Lake Elizabeth at that time. According to reports Mr. Adair heard, he understood that birds could walk across the top of the water on Lake Elizabeth, because there was so much vegetation and debris in the lake. The photograph of the county side of US Highway 17 showed a huge amount of litter accumulated in the ditch behind the bowling alley. Since the screen filtration was installed much of the debris was prevented from coming into Lake Elizabeth. The potential for pollutants and small particulates and bacteria, however, continue. There was no control over that. Mr. Adair explained to the planning commission last week that he was very concerned with the human contact aspect of using the lakes. There have been many anecdotal problems with heavy hits of bacteria coming out of the swashes. The lakes were treated, and volunteers tested the water weekly. Various chemicals were used multiple times depending on the severity of the problem throughout the course of the summer. They use products like Glyphosate, which is a "Round-up" weed killer type product, to control certain types of aquatic weeds; Diquat dibromide, a regulated restricted herbicide eliminates many of the submerged weeds, and Copper sulfate was used to treat the algae that grew on the surface creating the green film on the water. These chemicals help reduce the plant life in the ponds, but also present a different set of problems. For instance, there was oxygen reduction in the water caused by the dying plants. Mr. Adair said he personally would not eat fish out of any of the town's lakes, based on that information. There were all sorts of heavy metals that run off the roads like mercury, and copper. Even detergents from car washings go into the storm drains. He wanted everyone to be fully aware of the maintenance and what was used, because the ponds were not "clean spring water."

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Ms. Morris said that the town attorney also advised that if the amendment to prohibit the docks was adopted that Town Council be specific as to why the decision was made for the record.

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Ms. Mabry said number one, as leaders of the town, nothing comes before the health and safety of the citizens and the general public. There were also liability issues. But all the other issues take second place. Health and safety was number one. Ms. Herrmann asked if Ms. Mabry wished this to be 'for the record.' Ms. Mabry said yes.

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Mayor Samples asked Ms. Mabry to start over and begin with 'for the record.'

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Ms. Mabry said for the record, "As leaders of our community, health and safety is number one. That's what we're here for, and I have learned since the first vote, we've had a, an opinion from the Municipal Association. It's not a good idea. It's not safe. Our waters are not safe for body contact, and that's exactly what we're promoting, if we allow these docks. And as much as I'd like to thank the planning commission, because I do think they tried to split the baby without doing any harm, basically, it is harmful. This is a retention pond. There's not enough chemical made that will make this water clean,

224 because every day we're taking water from any part of the county. We don't have control over what
225 comes into our lakes. It is not spring fed, nor is it river fed. It is stormwater runoff, and it is everything
226 and anything that you can think. Even the chemicals that we put in it to take care of the algae is not
227 something that you want to be in contact with. We simply don't want to promote recreational activities
228 when we know it can be harmful. We call our retention ponds town lakes. We try to beautify them. We
229 try to make them look as nice as they can. We're a family beach; we want everything to look good. It's
230 still a stormwater retention pond. No matter how pretty you make it look. I just think that the bacteria, we
231 have over 1,100 acres in Horry County, it carries pollutants, contaminates, not limited to e-coli bacteria,
232 lead, arsenic, mercury, pesticides, chemicals, zinc, and herbicides. So nobody here, in my opinion, would
233 want body contact with that. So that is why I'm saying no to the docks. It's a health and safety issue."
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235 Ms. Kohlmann asked if that was what was needed, or if the ordinance needed to specifically state
236 for the health and safety. Ms. Morris said the statement just needed to be on record. Ms. Kohlmann just
237 wanted to make sure that it was adopted with the right wording.
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239 Mayor Samples called for the vote saying that if the motion was adopted, the amended language
240 would be adopted and would be an approved ordinance for the Town of Surfside Beach. Mayor Samples
241 asked Ms. Mabry to restate her motion.
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243 Ms. Mabry restated the motion to adopt second reading of Ordinance #13-0751 with an
244 amendment to delete Section 17-417 Docks and Section 17-418 Violations in their entirety, and to
245 substitute the following as Section 17-417: *All docks are hereby prohibited on the town stormwater*
246 *retention ponds, also known as "town lakes". Existing docks shall be considered existing non-conforming*
247 *uses and shall not be allowed to be rebuilt or replaced should the dock be damaged or become unsafe.*
248 Ms. Kohlmann seconded. All voted in favor. **MOTION CARRIED AS AMENDED.** (Applause)
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250 **A. Resolution #13-138 to allow canoes, paddle boats, and manpowered boats on town on**
251 **town lakes and to prohibit all motorized water vehicles and any other type of boat on Town Lakes.**
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253 Ms. Mabry moved to suspend the rules to allow discussion. Mr. Johnson seconded. All voted in
254 favor. **MOTION CARRIED.**
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256 Mayor Samples asked if the town attorney had reviewed the resolution as written. Ms. Morris
257 said yes, he had. Mayor Samples said for the record, "the resolution itself could be construed to invite
258 usage on the lakes." Ms. Morris said that was true, it could be construed as such, but if you did not have
259 anything in place, then you would be allowing whatever they put on the lakes in the lakes. First, they
260 were not inviting kayaks, canoes, and paddle boats, but they were already being used on the lakes. It
261 was recommended that signage be placed around the lakes that state use of the lakes is at the user's
262 own risk, but staff did not recommend it. Mayor Samples asked if Ms. Morris was recommending that
263 warning signs be posted. Ms. Morris said no, she did not.
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265 Ms. Kohlmann agreed with Mayor Samples. At the planning commission meeting someone
266 mentioned that you could not control what people do, and that was very true. Unless the town wanted to
267 fence the lakes, they would not be able to keep people out of them, because there was public access to
268 them. Some people, and even she, believed that the town would have to build a public ramp; but, there
269 was public access already on Cedar Drive North and on Dogwood Drive. She knew people who canoe in
270 the lake. You cannot stop what people do that way. There were a lot of ordinances, as she had said
271 before, and the Mayor always said it, do not create ordinances that cannot be enforced. Ms. Kohlmann
272 said they did not want to be so (**) that it could not be controlled. She believed the lakes were retention
273 ponds. She was big on stormwater, so she agreed. If some rule was not in place, the next thing they
274 would see would be jet skis. Sooner or later it would happen. The public would argue if no rules were in
275 place that they could not be told no. She believed the council should consider the issue and do what was
276 best for the town.
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278 Ms. Morris said if Town Council chose to approve the resolution today, staff would present an
279 ordinance for consideration at the next regular council meeting.

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Mr. Johnson agreed.

Mayor Samples said some definition should be made with respect to the word "small." Ms. Morris said the wording was adjusted slightly; copies were distributed that showed a recommendation at the very end that "Now, therefore, be it resolved that the Town of Surfside Beach Council does hereby resolve to limit the use of watercraft to a 4-person canoe, a 2-person kayak, and no more than 2-person small paddle boat to the daytime hours only." Ms. Morris believed that would certainly limit the size. Mayor Samples asked if that would be included in the ordinance. Ms. Morris said yes. Mayor Samples asked when the ordinance would be presented. Ms. Morris said at the next council meeting.

Mr. Johnson moved to adopt Resolution #13-138. Ms. Mabry seconded.

Ms. Kohlmann asked if the ordinance would be presented at the next council meeting. Mayor Samples said yes. Ms. Kohlmann asked if someone had a 4-person paddle boat in the water, if they could continue to keep it there. Ms. Morris said according to the resolution they would only be allowed in the water during daylight hours, so it could not be left overnight. Ms. Kohlmann asked if this would be represented like a regular ordinance and word or two could be changed. Ms. Morris said absolutely and just for the record, "this will not be a planning and zoning ordinance. That's why it will not go to planning commission. This is actually a public works ordinance, so she wanted to clarify why it would not go to the planning commission for their recommendation."

All voted in favor. **MOTION CARRIED.**

4. ADJOURNMENT.

Mr. Johnson moved to adjourn the meeting at 3:39 p.m. Ms. Kohlmann seconded. All voted in favor. **MOTION CARRIED.**

Prepared and submitted by,



Debra E. Herrmann, CMC, Town Clerk

Approved: August 13, 2013


Douglas F. Samples, Mayor


Mary M. Mabry, Mayor Pro Tempore


Ann Dodge, Town Council


Mark L. Johnson, Town Council


Elizabeth A. Kohlmann, Town Council


Roderick E. Smith, Town Council


Randle M. Stevens, Town Council

Clerk's Note: This document constitutes minutes of the meeting, which was audio taped. Appointments to hear the audio tapes may be made with the town clerk. In accordance with FOIA, meeting notice and the agenda were distributed to local media and interested parties. The agenda was posted on bulletin boards outside Council Chambers; in the Town Hall reception area, and on the town website. Meeting notice was also posted on the Town marquee. When (**) is used, a section of the transcription is inaudible. Public Comments are verbatim.