

**Town of Crested Butte
Regular Town Council Meeting
Minutes
Monday February 3, 2014
Council Chambers, Crested Butte Town Hall**

Mayor Huckstep called the meeting to order at 7:03 p.m.

Council members present: Roland Mason, Chris Ladoulis, David K. Owen, Jim Schmidt, Aaron Huckstep, Shaun Matuszewicz, and Glenn Michel.

Staff present: Todd Crossett, Town Manager; John Belkin, Town Attorney; and Kathy Napoli, Deputy Town Clerk.

Staff present for part of the meeting: Bob Gillie, Building and Zoning Director; Rodney Due, Public Works Director; and Lois Rozman, Finance Director.

APPROVAL OF AGENDA

Remove Item 1 under new business and move Item 7 and replace this to Item one position under new business.

Add the Proclamation declaring February 2014 Aaron Blunck and David Chodounsky Month. Schmidt moved and Mason seconded to approve the agenda.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

CONSENT AGENDA

1) Approval of January 21, 2013 Minutes.

Deputy Clerk Napoli stated that the changes David K. Owen and Glen Michel requested were made to the minutes.

Michel moved and Mason seconded to approve the consent agenda.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

PUBLIC COMMENTS

Skip Berkshire, town resident stated that the Town Website looks great and appreciated the new updates. He stated that he is also here to thank the Town for the support of the Alley Loop. It was a great event and over 400 people registered for the Alley Loop. There were people from Buffalo NY, Minnesota, and 47 Collegiate Athletes. He expressed special thanks to Mayor Huckstep for helping with the tear down and to direct traffic. He stated that they could not have done the event without the town.

Rob Burnett, town resident stated that he was here to represent HCCA. He explained that he is President of Board of Directors for HCCA and that he, the board, and the staff are thrilled that everyone is working together with US Energy. It is very important that HCCA and the Town continue to work together regarding the prospect of an amended VCUP. He thanked the town.

STAFF UPDATES

Bob Gillie-

- Stated that the BOZAR year end review will be on Wednesday February 12th at 7pm in the Town Council Chambers.
- BOZAR conditionally approved Caddis Flats, 12 conditions approved so far.
- Molly and Jessie will be at Colorado preservation conference in Denver later this week.
- Gillie stated that the Scarps Ridge project is being considered by the County Commissioners tomorrow at 10:10 a.m.
- Gillie shared that John Fitzgerald is leaving the department and his position is advertised. Gillie referenced the new aerial photo that the county printed out for the Town of Crested Butte that is displayed in Town Council Chambers.

Todd Crossett-

- Stated that Town Planners will be coming into town on February 20th for the last round of interviews. There are three final candidates.
- Crossett updated on the VCUP. Jim Starr was invited by US Energy to meet with them and communicated with the community that they are willing to work on a deal. Crossett stated that Jim Starr has spoken collectively with Belkin, the Town, Red Lady, and HCCA. A request was made to the town from Jim Starr to receive compensation for being a potential facilitator to aid in a resolution in-between the town and US energy. Crossett asked for more information on the VCUP and has heard they are going to resubmit again. Crossett clarified that US Energy is interested in a proposal from the community to buy the mountain. Crossett reported no further information from US Energy at this time.
- Crossett stated that the County, Gunnison, Town of Crested Butte and Mt. Crested Butte will be at the Mayor Manager meeting on Thursday and do a presentation.
- Mayor Huckstep stated that it is time for council to talk about VCUP and US Energy. This needs to go under new business on the next agenda meeting. Crossett stated that Attorney Belkin stated that last fall the town asked if we would like more information from US Energy, including how to deal with federal land. Jim Starr asked this of US Energy and so did the Town of Crested Butte. At this point, they have not responded.
- Mayor Huckstep stated that it is frustrating for there to be no information and to try to make an educated decision.
- Town thanked Jim Starr for his help but the town has reached out directly to US Energy.
- Crossett stated that there are several different options and the VCUP/US Energy will be added to the next Town Council Agenda.

Kathy Napoli-

- Napoli updated the Town Council that the February 2014 Newsletter is available for their review.
- The Town Council Retreat will take place Monday, February 10th from 2-6pm in Town Council Chambers. Public Notice has been given that three or more Town Council members may be present together.

Rodney Due-

- Due stated that the Alley Loop was successful. The boys have been busy with plowing with the major snowfall. Currently, Crested Butte is still in a snow cycle. Due reported that the snow banks on Elk Avenue will be there for a little bit longer until this next snow storm moves through.
- Due reported that he is going to Washington D.C. for the national water tasting competition for our local water next week.
- Due explained that the purchase of new dump truck was delayed. He added that it was supposed to be here prior to 2014, but the town just received it before the Alley Loop.
- Mayor Huckstep shared a compliment from a local citizen on how great Rodney and his team did with the snow removal and plowing for the Alley Loop.

Lois Rozman-

- Rozman added information about the dump truck. She stated that in 2013 the town budgeted for the lease of the dump truck, but we received it in 2014. The town will ask for a budget amendment at the end of the year of \$135,000 dollars in lease proceeds. It will balance out to zero, but wanted to report this upfront to the council.
- Currently, Rozman reported that the Town is up 6 ½% for sales tax from year to date. This December was an all time record December and the town was up 1.7% from last December. Rozman noted that she had provided the council with a handout as well.
- Ladoulis asked if it is hard to do inflation numbers, and Rozman said she can share those via email and the website. She explained that she thinks council will be pleasantly surprised by the numbers.

PUBLIC HEARINGS

1) Approval of an Application to Transfer Ownership of a Medical Marijuana Establishment at 329 Belleview Avenue, Unit A, Crested Butte Wellness Center, LLC to CCC Management, LLC.

Mayor Huckstep confirmed that public notice has been given and Deputy Town Clerk Napoli confirmed it had been given.

Mayor Huckstep opened the public hearing.

Mayor Huckstep opened for public comments.

No public comments

Schmidt asked who the local contact is for the CB Wellness Center, since the company is out of Breckenridge. Parker McCloud is the local contact on the Business License. McCloud has worked at CB Wellness Center a year and 8 months, per the owning partners. Owners explained that this is their 5th year as a marijuana establishment in Breckenridge. They changed from medical to retail in Breckenridge, and plan to do the same in Crested Butte. Owner stated that he has caught up CB Wellness Center in all outstanding bills, taxes, and have good relationships with people in the community. Schmidt asked where the growing is happening and the owners reported that the product is grown in Oak Creek, Colorado where they have a sister shop. They reported that everything happens there and that everything is organic with no pesticides. The owner noted that they were open in Breckenridge on January 1, 2014 and they are capable of following rules.

Michel asked if there is a maximum amount of owners to comply with state requirements. Catlin McGuire stated that she is the majority owner and she will be available for all questions. Crossett said he thinks there are no limits to the amount of owners. Belkin referenced ordinances and stated there is some crossover with who you call and people in the company. Deputy Clerk Napoli stated that CCC Management has been diligent in working with the Clerk's office in completing all necessary documentation and payments.

Schmidt moved and Owen seconded to approve the transfer ownership of a Medical Marijuana Establishment.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

NEW BUSINESS

1) Discussion and Possible Action Regarding Revising the Crested Butte Municipal Code to Amend the Town's Requirements on the Open Carry of Firearms.

Huckstep stated that there is a memo from Attorney Belkin. Community member Nils Freeman communicated with Chief Marshal about carrying a gun at night when he walks his dog. Tom Martin and Todd Crossett approached Belkin in December. Belkin has researched this topic and our law is inconsistent with state law. Belkin also stated that the code might be something that is old, but it is something that we need to change. State statute says we have a law that is not consistent. However, Chief Marshal, Tom Martin, is not here tonight and Belkin recommends that this should be moved to next council meeting when Tom Martin can be here in person to discuss this and address exceptions to this law.

Schmidt stated that the exceptions are town buildings and town parks.

Michel asked staff to prepare a list of possible areas of exceptions and present it at the next meeting.

Shaun asks if the council is really interested in listing exceptions.

Mason and Matuszewicz state that they are both okay with someone walking into Town Hall with a fireman. Schmidt stated he is not okay with this.

Belkin clarified that this law is not for concealed weapons.

Ladoulis would like a recap of state laws regarding concealed weapons and also open carry of firearms.

Belkin stated this will be put on next agenda; he will have a spread sheet with laws and proposed changes and where exceptions might be.

2) Approval of the Reappointment of Jim Schmidt and Sue Navy to the Gunnison Valley Land Preservation Board.

Sue Navy stated that being on this board has been a fine experience and the board does excellent work. She explained that they do work with the Trails Commission, the Crested Butte Land Trust, and have done over 50 projects to date in valley. Sue Navy asked the question if they both (Schmidt) would be regulars and not having one as an alternate. Schmidt is regular now. Town will advertise for an alternate, per Crossett.

Matuszewicz moved and Mason seconded to approve the Reappointment of Jim Schmidt and Sue Navy to the Gunnison Valley Land Preservation Board.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

3) Approval of Special Event – Big Air on Elk Avenue, March 8, 2014, Elk Avenue Closure.

Mayor Huckstep asked the council if they are not in support of this event happening and the council expressed that they support the event. Huckstep re-stated that the Council all support this event as a whole and want to see it happen.

Huckstep brought up the third party recommendation that the town staff suggested in their report. Town Manager Crossett brought up the safety of everyone and especially the safety of the spectators. Crossett noted that in October the town asked Gabe Martin for a third party review because the town is not an expert on the event.

Town Manager Crossett stated that the town is in support of the event, and that Gabe Martin has been responsive and supportive of the town's needs. This year the town had two new inquiries and Martin has addressed both issues, but Martin is not a third party expert, although he is an expert. Town Manager Crossett explained that staff thinks this is not a tremendous amount of money to have a third party review the safety of this event. Town Manager Crossett said he wants this event to happen.

Councilman Michel clarified that it would be a professional opinion or someone to take liability. Town Manager Crossett stated a third party professional opinion would show that the town did their due diligence to make it as safe as possible. The town wants someone who does this as living to take independent look at the event that is not tied to Gabe's company, per Town Manager Crossett.

Councilman Owen asked what happens if and when the professional states to change everything. Town Manager Crossett stated that this is a risk, but the community values putting on high risk events and not in the business of stopping them.

Councilman Owen asked if the third party made different recommendations, then do we need to make those changes. Town Manager Crossett stated yes we should make minor changes. Town Manger Crossett stated that if it is a major change, like not on Elk Avenue, then it is something that will be discussed by the council.

Organizer Martin stated that safety is his number one priority for spectators, staff, and skiers. Martin stated that in the four years he has put on the event, injuries have decreased. Martin stated that every year he has done what has been asked of him by the Town, including a media pit and

spectators standing further back. Martin stated that the other third party professionals have never seen this event and Martin and Big Air on Elk cannot afford \$2500 fee. Martin wonders if the professionals will come up with something wrong just to have it in the report. Martin stated this is a small based volunteer event and he is skeptical of this review, but he has always worked with the town and council.

Mayor Huckstep asked Organizer Martin if the event has grown over the past three years both online and on site. Martin stated that it has grown online, but not as much on site. Martin stated that there have not been many areas for spectators to stand. Martin stated that he put the event online so that people can watch the event on the TV and in the bars and restaurants. Business owners bring in TVs for the event and it is the fourth of July of the winter. Martin stated that he feels like there have been more people in town over the years.

Rodney Due, Public Works Director explained that the CIRSA lawyers told staff that if they know of any potential risk that they did not address, we could all be in a civil suit. Due added that two items Organizer Martin has already mitigated potential risks for that were asked from him. The third thing, Chief Marshal, Tom Martin brought up is that he wanted a third party review and there is a paper trail of this and this leaves town liable.

Town Manager Crossett stated he did not intend to bring up CIRSA, but added that they insure the town and insure town employees as long as you are operating responsibly. He added that if the town does identify a risk area and ignore it then the town could be viewed as operating recklessly.

Councilman Ladoulis stated that this came up in the fall and now we are forty days away and are being forced to make this decision so quickly. Town Manager Crossett stated that this did start in the fall and staff did not feel comfortable with Organizer Martin or Jump Builder Paden as the only professionals. However, Town Manger Crossett said that this third party would not redesign the jump, but look at it for red flags. Town Manager Crossett stated this is a way that we can make sure the event will continue to happen.

Town Manager Crossett stated that council could move forward without a third party opinion.

Councilman Schmidt asked about the professional opinion and who they are. Town Attorney Belkin stated they are his contacts and have been involved with X- games. Town Attorney Belkin said they are essentially expert witnesses in the area of safety and they can do a quick overview of event to make sure it is safe.

Councilman Matuszewicz stated that these companies are overly conservative and they don't want any fingers pointed back at them. Councilman Matuszewicz also said 40 days is not a lot of days. Councilman Matuszewicz stated that town is not an expert on chainless bike races, Nordic ski races, etc. and asked where to draw the line. Organizer Martin stated that he has a good reputation and he does not understand where to set the line, because other events do not need a third party review.

Mayor Huckstep asks for an example report from the third party review. Town Attorney Belkin stated professionals watched you tube videos and have both been to Crested Butte, and they seem to be qualified.

Councilman Ladoulis stated that we have to do it, because if we do not we know it could have a risk.

Mayor Huckstep stated the only changes to this event over the years are additional safety procedures.

A conversation ensued around the safety of the pedestrians and where potential injury could happen. Organizer Martin stated that no one has ever gone into the crowd. Mayor Huckstep said that the snowmobiles are the biggest issue. Town Attorney Belkin stated that Mayor Huckstep is right on and that is what the third party people are concerned about, not about the skiers. Due has stated that Martin did mitigate the snowmobile risk. Town Attorney Belkin stated the problem with this is that no one at the town is a specialist for the risk of this event. Due expressed that Chief Marshal also had concerns about the skiers going into the crowd.

Organizer Martin stated that the skier could only hit a pedestrian if it was intentional. Organizer Martin stated that the other component is even if they do get pulled to the side, they will go to the left where there is extra space. Organizer Martin stated that this is an invite only event for the skiers and they are all professionals. Aaron Blunck won this twice and he lost once, and he is an Olympian. There is a lot of trust put into the skier, per Organizer Martin.

Mayor Huckstep stated he hears concern from council that the recommendations from the third party professional could change the event. Mayor Huckstep asked if it is possible to have the third party professional on site for event, and help with Organizer Martin. Organizer Martin said he will do everything he needs to do to make town staff feel safe and keep people safe.

Mayor Huckstep stated he thinks that the feedback is more important than a report at this point in time and we could use information for next year.

Councilman Schmidt stated that this is a 'CYA' thing for the town. And that the US Pro Challenge is more scary than this event. Councilman Schmidt asked if this report will be good for years or just for one year.

Town Manager Crossett stated he does not think it would be something to do yearly unless you change the design. Organizer Martin stated that if the professionals shut it down it could be a waste of \$2500.

Councilman Owen stated that everyone is assuming that it will say to only tweak a thing here or there, but the report could be conservative. Councilman Owen asked the question about what happens if and when and the report suggests the event cannot happen.

Councilman Michel stated we cannot keep our head in the sand when it comes to risk. It may be important to look at a neutral third party. As stewards of the people of the Town of Crested

Butte, we need to be very careful of this event. Councilman Michel stated we have no town staff signatures and he will not support an event without a third party review.

Councilman Ladoulis reviews options and Town Manager Crossett expressed options on the staff report.

Councilman Matuszewicz stated that the memo does not give an option of approving the event without a third party review. Town Manager Crossett stated he wrote the options and that is an additional option.

Matuszewicz moves to approve event without the third party review and Mason seconded. Town Attorney Belkin says there is a lot of liability if town council goes forward with this motion.

A discussion ensued with Town Council regarding the safety and third party opinions. Councilman Schmidt stated they are the judges of common sense. Councilman Michel stated that the Town of Crested Butte is currently successful and has strong reserves, a strong economy, and a lot to lose if they do not get an independent review. Councilman Ladoulis stated he is a proponent of a third party review.

Councilman Matuszewicz withdrew his motion. Having someone on the ground during the event is more important and makes sense, per Matuszewicz. Councilman Mason added that he thinks if there are small tweaks that we can find them internally

Due stated that he thinks we would be covered by CIRSA because we know there is risk and we are doing something about it by bringing in someone to watch and help with the event. Due defers to Town Attorney Belkin and asks if is this correct and Attorney Belkin stated yes mostly.

Councilman Michel stated that usually inspectors come before the event; we are doing the opposite with this event. Councilman Matuszewicz stated it is like asking a building inspector to come look at a tent, not a building.

Councilman Matuszewicz recapped that Due and Town Attorney Belkin both say Town Council has met the concern in having someone on the ground during the event is being proactive.

Town Manager Crossett stated it is clear that Due is speaking on his own and not town staff.

Mayor Huckstep thinks it is in everyone best interest to have this review, but he does not think it makes sense to have a written review of this event and it could lead to the cancellation of event.

Councilman Matuszewicz asked what it will take to have yes votes.

Mayor Huckstep asked the town attorney what CIRSA said and Town Attorney Belkin stated that he did not talk to them. Town Manager Crossett reported that Town Clerk Shelley Jansen talked to CIRSA.

Councilman Ladoulis stated risk to spectators is what is important.

Councilman Matuszewicz brought up that Organizer Martin should pay for the third party during the event or report because if town pays for it then it is a public document. Editor Reaman says he will ask for the document.

Councilman Matuszewicz stated that if the council votes yes to this motion it may be voting to kill this event

Mayor Huckstep stated that an onsite visit is beneficial and he supports that.

Councilman Matuszewicz motioned to approve Big Air on Elk with a third party professional on site during the event. Mason seconded.

All voted "NO" except Huckstep and Mason voted "YES." Motion did not pass.

Mayor Huckstep opened the discussion to public comments from audience.

Nils Freeman stated he would have all spectators and all citizens sign liability waivers.

John Wirsing stated that the idea of a third party is silly. He added that Organizer Martin is the expert and we don't pay the \$2500.

Organizer Martin asked the council what he should say to his sponsors and Mayor Huckstep said to talk to them and if there is a problem with the event then come talk to Town Council. Town Attorney Belkin and Town Manager Crossett will call Organizer Martin and put him in touch with the third party organizer.

A motion to approve the Big Air on Elk event subject to the report from the Tilton Group not to exceed \$2500.00 and approval of the event contingent on the town staff approval.

Michel moved and Schmidt seconded to approve the Special Event License for Big Air on Elk Avenue pending the report from the Tilton Group not to exceed \$2500.00 to be taken out of Council discretionary funds and approval of the event contingent on the town staff.

A roll call vote was taken with Michel, Ladoulis, Owen, and Schmidt voting "Yes." and Matuszewicz, Huckstep and Mason voting "No." **Motion Passed.**

4) Approval of Special Event Liquor License - Big Air on Elk Avenue, March 8, 2014 at 3rd and Elk from 5-9 p.m.

Matuszewicz moved and Schmidt seconded to approve the Special Event Liquor License for Big Air on Elk Avenue.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

5) Ordinance No. 1, Series 2014 – An Emergency Ordinance Authorizing the Purchase of Unit B, Redwell Townhouses, Town of Crested Butte.

Mayor Huckstep clarified that this is an emergency meeting and does not go to public hearing. Mayor Huckstep stated that there is a foreclosure sale to take place February 12 and therefore no time before then to have a public hearing.

Mayor Huckstep stated the bottom line is that the owner is not paying mortgage and if goes to foreclosure then the deed restriction could lapse. If buyer can't close, then this ordinance allows town to step in and take ownership of property and market/sell to third party.

Councilman Michel asked Town Manager Crossett where the money would come from. Finance Director Rozman stated that the affordable housing fund has \$216,000 surplus at end of 2013.

Councilman Mason asked town if they will be prepared to fix it up and or rent it and Rozman said this is new territory. Rozman stated that they are only asking tonight to do purchase if needed, and go from there. Rozman stated she believes we could get it sold.

Mayor Huckstep pointed out it appears that it will not be a loss for town. Town Attorney Belkin stated the town understands what numbers will work for the sale.

Mayor Huckstep stated he would like to discuss this openly in public about how the town came to the \$160,000 number. Town Attorney Belkin stated that they know that we will not go upside down with this number, and he feels it is plenty of money for this offer.

Town Attorney Belkin recommends executive session if is about cost, but council did not feel this it is necessary.

Schmidt moved and Owen seconded to approve Ordinance No. 1, Series 2014.
A roll call vote was taken with all voting "Yes." **Motion Passed.**

6) Ordinance No. 2, Series 2014 – An Ordinance Amending Chapter 2, Article 2 of the Crested Butte Municipal Code to Remove the Requirement that Regular Town Council Meetings be Held at 7:00 p.m. on the First and Third Mondays of Each Month and Instead be Held at Such Time as the Town Council Shall Elect from Time-to-Time on the First and Third Mondays of Each Month.

Mayor Huckstep stated that this does not need a vote as this will go to a public hearing.

Matuszewicz moved and Mason seconded to set Ordinance No. 2, Series 2014 for a public hearing that will be held on February 18, 2014 at 7:00 p.m. for Ordinance No. 2, Series 2014.

LEGAL MATTERS

At the next Town Council meeting, Town Attorney Belkin stated that there needs to be a protocol of how staff approves special events. Town Attorney Belkin will work with Town Manager Crossett and Department Head Jake Jones to present something to the town council.

COUNCIL REPORTS AND COMMITTEE UPDATES

Owen-

- Business Incubator meeting was sparsely attended compared to the first one. Owen stated that people were working together to locate an 'on the ground' site and what are the options in the Town of Crested Butte. The next meeting is on February 11th in Town Council Chambers at 3pm. Notice will be given that three or more town council members will be at the event.

Mason-

- There was a Mountain Express Meeting on January 23rd that discussed benefits package for employees and what consists of a full time employee. As well, during the meeting they looked at a bus with one step platform that would be handicap accessible, would be double the cost of a regular bus, but trying to think about the future. Most companies only make a one step platform bus. Mason added that Ridership was up in December and it mimics sales tax which was also up in December.

Matusewicz-

- He stated that the Center for the arts is having many shows in the next month.

Mayo Huckstep-

- Reported that the Jackson Hole CAST Conference was good and their community is very similar to Crested Butte. They have three million visitors in summertime and 92% of visitors that come in the winter come into their airport. Mayor Huckstep stated that did not disclose their plans. He also noted that they recently banned cellular devices in cars without hands free device. As well, they have great bike signage and the same issues on buses carrying bikes as we do.
- Mayor Huckstep brought up Councilman Michel's concern regarding CDOT closing Monarch during a day for avalanche control and why it was done at night. Councilman Michel says if they delayed the closure to later in the evening we would get more visitors into Crested Butte.
- Councilman Schmidt stated he felt it might have been a safety issue and they close very few times a year. He also added he heard a comment that United Airlines did a good job getting bags here after flights were delayed.
- Councilman Mason stated that they may have changed upper management at United and trying to focus on customer service.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Mayor Huckstep discussed last summer that he talked with town manager of Breckenridge regarding how people can walk anywhere with an open container of alcohol during certain special events.

Mayor Huckstep asked how Breckenridge was able to do that and he indicated that the town council gave permission to the town manager of Breckenridge to waive the open container law when it makes sense. Mayor Huckstep added like 4th of July, Alpenglow, Vinotok, etc.

Mayor Huckstep said he would like the town to review if we do not always need to require a liquor license for every special event.

Councilman Schmidt stated it makes sense to have an open container law for special events. Councilman Mason brings up if this would also apply to marijuana. Town Manager Crossett stated that the state says smoking marijuana in public is not legal. Town Manager Crossett stated that we wouldn't be trumping state law with liquor.

Town Attorney Belkin stated he would like to research this and come back with a report. Mayor Huckstep stated he wants the town to research how Breckenridge is able to have open container and see if our town could also do this.

DISCUSSION TO SCHEDULE FUTURE WORK SESSION TOPICS

None

COUNCIL MEETING SCHEDULE

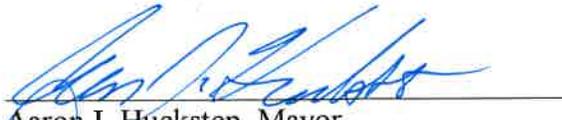
Tuesday, February 18, 2014-6 p.m. Work Session-7 p.m. Regular Council

Monday, March 3, 2014-6 p.m. Work Session-7 p.m. Regular Council

Monday, March 17, 2014-6 p.m. Work Session-7 p.m. Regular Council

Monday, April 7, 2014-6 p.m. Work Session-7 p.m. Regular Council

Mayor Huckstep adjourned the meeting at 10:03 p.m.



Aaron J. Huckstep, Mayor

 (SEAL)

Kathy Napoli, Deputy Town Clerk

