



Town of Nantucket Finance Committee

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Committee Members: James Kelly (Chair), Clifford Williams (Vice-chair), Matthew T. Mulcahy, John Tiffany, David Worth, Stephen Maury, Craig Spery, Joseph T. Grause Jr.; Peter McEachern

MINUTES

Monday, February 1, 2016

4 Fairgrounds Road, Community Room – 4:00 p.m.

Called to order at 4:02 p.m.

Staff in attendance: Brian Turbitt, Director of Finance; Lynell Vollans, Assistant Director of Finance; Andrew Vorce, Planning Land Use Services (PLUS) Director; Leslie Snell PLUS Deputy Director; Holly Backus, Land Use Specialist; Terry Norton, Town Minutes Taker

Attending Members: Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern

Absent Members: Mulcahy, Maury

Late Arrivals: None

Early Departures: None

Documents used: Warrant Articles for 2016 Annual Town Meeting; zoning maps.

I. PUBLIC COMMENTS – Any member of the public may address committee at this time

1. Peter Sutters, Inquirer and Mirror - Introduced himself, he will be covering the FinCom meetings.

II. APPROVAL OF PRIOR MEETING MINUTES

1. None

III. ZONING WARRANT ARTICLES FOR 2016 ANNUAL TOWN MEETING (ATM)

1. Article 33 (Zoning Bylaw Amendment/Home Rule Petition: Coastal Erosion Liability Waiver

Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern

Recused None

Presentation **Vorce** – Public hearing not yet held; this is still open.

Discussion None

No action at this time.

N/A

2. Article 34 (Zoning Map Change: RC (Residential Commercial) to CMI (Commercial Mid-Island) -Bayberry Court, Cherry Street, Chin's Way, Dave Street, Freedom Square, Hooper Farm Road, Orange Street, Pleasant Street, Sanford Road, Sparks Avenue and West Creek Road)

Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern

Recused None

Presentation **Vorce** – The public hearing has been closed and has a positive recommendation of the Planning Board. This will simplify the zoning map. The lots are 5,000 square feet (SF) with 50-foot frontage; under state law a single-family dwelling can be built and duplexes are allowed. If another article passes, additional structures could be considered as apartments.

- Discussion **Williams** – Asked about the ROH which stops at Back Street; he thought it went to Cherry Street.
Vorce – There is the zoning district ROH which stops at Back Street and the Historic District Commission (HDC) old historic district (OHD) which goes to Cherry Street. We are trying to match the two up.
Worth – Asked if ground cover is increased and about a lot on the corner of Orange and Bear Streets.
Vorce – No it won't increase ground cover. That corner lot has wetlands on it. There are some RC areas not included in this article to allow for additional study: Marine Home Center, Boys and Girls Club. The single-family dwelling and industrial not allowed as a principal use in this area any longer. This area is zoned primarily for retail shops. Existing homes are grandfathered.
- Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Spery)
(seconded by: Williams)
- Vote Carried unanimously
3. Article 35 (Zoning Map Change: RC-2 (Residential Commercial-2) to CMI (Commercial Mid-Island) - Hanabea Lane, Nobadeer Farm Road, Old South Road and Wampanoag Way)
- Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern
Recused None
- Presentation **Vorce** – There is an existing pattern of mixed use development in this area. They took out some industrial uses located to the south, and did not include, by request, a property fronting Nobadeer Farm Road. The public hearing has been closed with a change and has a positive recommendation of the Planning Board.
- Discussion **Williams** – Asked if there are many RC-2 districts left.
Vorce – RC-2 is down to about 215 acres. There are three commercial districts being phased out: RC-2, RC, and Limited Commercial, which has been eliminated. There is only about 90 acres of RC remaining.
- Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Spery)
(seconded by: Williams)
- Vote Carried unanimously
4. Article 36 (Zoning bylaw Amendment: Commercial Mid-Island)
- Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern
Recused None
- Presentation **Vorce** – This has been continued.
- Discussion None
- Motion No action at this time.
- Vote N/A
5. Article 37 (Zoning Map Change: RC-2 to CTEC and R-5 – Bartlett Road and Marble Way)
6. Article 38 (Zoning Map Change: RC-2 and CTEC to R-10 or R-20 – Marble Way)
- Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern
Recused None
- Presentation **Vorce** – These have been continued to Feb. 8.
- Discussion **Williams** – The Mr. Vorce's opinion on how the Planning Board might vote.
Vorce – They have discussed the pros and cons of a zoning change for this area; some commercial entities have already taken protective steps to grandfather their property. The revised zoning would provide for businesses that are not customer based in an effort to minimize the impact on the neighborhood. This street has always been split with residential commercial—now CTEC—on one side and residential on the other.
- Motion No action at this time.
- Vote N/A

7. Article 39 (Zoning Map Change: RC-2 to CN and R-5 – Fairgrounds Road, Vincent Circle and Ticcoma Way)

Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern

Recused None

Presentation **Vorce** – The RC-2 would be phased out so that the bulk of the 2 & 4 Fairgrounds Road property becomes CN. The properties facing other residential properties will go to R-5 which would allow the Town to build apartments.

Discussion **Spery** – Asked if the lots along Ticcoma Way are included.

Vorce – Those would go to R-5. The public hearing has been closed and has a positive recommendation of the Planning Board.

Williams – Asked if this is all one piece of land.

Vorce – There are three parcels.

Williams – Asked if there are covenants on the property that would limit the type of development.

Vorce – The Town is looking at the southwest corner as a possible location for apartments.

Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Tiffany) (seconded by: Spery)

Vote Carried unanimously

8. Article 40 (Zoning Map Change: R-1 to ROH – Various Locations)

Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern

Recused None

Presentation **Vorce** – Changes R-1 to ROH to follow the HDC OHD lines. Most of these properties already match the requirements for ROH.

Discussion **Spery** – Asked about the Mill Hill Lane area.

Vorce – There is new construction going on which is newer in character; there is a new subdivision laid out there.

Kelly – Asked if this extends the pool prohibition.

Vorce – Yes. Have not heard from anyone asking to be removed from this article. The areas not included will go to R-5. The public hearing has been closed and has a positive recommendation of the Planning Board.

Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Grause) (seconded by: Williams)

Vote Carried unanimously

9. Article 41 (Zoning Map Change: R-20 to VR - Quidnet)

Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern

Recused None

Presentation **Vorce** – This has generated a lot of comments. It is in a town district located in a country overlay district. The Planning Board is recommending no action with referral to the planning commission for an area plan. Reviewed other similarly conflicting zoning: Madaket village, Wauwinet.

Discussion **Tiffany** – This does look like a village in some areas; further out Quidnet Road it is less dense.

Grause – The people with big lots want to be able to subdivide; the village people want it to stay the way it is.

Vorce – This needs more work. The Planning Board is recommending no action.

Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Tiffany) (seconded by: Williams)

Vote Carried unanimously

10. Article 42 (Zoning Map Change: Village Residential/Swimming Pool)
Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
Recused None
Presentation **Vorce** – This would expand the prohibition of pools to village residential areas. This article was geared toward Quidnet but there are other similar areas. The Planning Board recommends no action.
Discussion **Williams** – Asked what the objection to pools is.
Vorce – On small lots they can have a land-use impact; cross-over HDC members believe they have impact on the historic value.
Motion **Motion to Support the Planning Board motion with a positive comment.** Made by: Tiffany) (seconded by: McEachern)
Vote Carried unanimously
11. Article 43 (Zoning Map Change: R-20 to R-40 or LUG-1 – Crooked Lane, Grove Lane and Madaket Road)
Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
Recused None
Presentation **Vorce** – This is a low density district with conservation land along a private road; this lowers the density further. If sewer is extended here, there is development potential. The public hearing has been closed and has a positive recommendation of the Planning Board.
Discussion None
Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Williams) (seconded by: Tiffany)
Vote Carried unanimously
12. Article 44 (Zoning Map Change: SR-20 to SR-1/Clifton Street, Comeau Lane and Sconset Avenue)
Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
Recused None
Presentation **Vorce** – This area already meets the SR-1 zoning standard; the impact of this article is minimal. When the zoning changed to SR-20 in the 1980s, these all became non-conforming lots. The public hearing has been closed and has a positive recommendation of the Planning Board.
Discussion None
Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Williams) (seconded by: McEachern)
Vote Carried unanimously
13. Article 45 (Zoning Map Change: CDT, ROH, R-1, R-20 and LUG-2 to R-40 - Town Open Space)
Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
Recused None
Presentation **Vorce** – This continues the clean-up of articles for open-space properties within the Town overlay by moving them to lower density districts. Some are either protected open space or wetlands. The public hearing has been closed and has a positive recommendation of the Planning Board.
Discussion None
Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Grause) (seconded by: Sperry)
Vote Carried unanimously
14. Article 46 (Zoning Map Change: R-20, VR, LUG-1, and LUG-2 to LUG-3 – Country Open Space)
Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
Recused None
Presentation **Vorce** – Similar concept in the Country Overlay District. Reviewed the locations around the island included in the article. The public hearing has been closed and has a positive recommendation of the Planning Board.
Discussion None

- Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Williams) (seconded by: Grause)
- Vote Carried unanimously
15. Article 47 (Zoning Map Change: VTEC to VR, VTEC to LUG-3, and LUG-3 to VTEC – Hummock Pond Road)
- Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
- Recused None
- Presentation **Vorce** – Clean up article from an article last year; at that time the GIS showed the property wrong. This aligns the property into one district rather than being split down the middle. The public hearing has been closed and has a positive recommendation of the Planning Board.
- Discussion None
- Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Sperry) (seconded by: Tiffany)
- Vote Carried unanimously
16. Article 48 (Zoning Map Change: LUG-2 to R-40 – Evergreen Way, Daffodil Lane and Airport Road)
- Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
- Recused None
- Presentation **Vorce** – This is a citizen article proposed to create a transition area between the Richmond Development property—R-5 and CN—and the LUG district. The public hearing has been closed and has a positive recommendation of the Planning Board. The R-20 area is ½ acre and the RC is the Nantucket Inn. The owners argued that they have 2-acre lots while around them are ½ acre to smaller lot. The LUG is a Town overlay district in the county overlay district within the sewer district.
- Discussion **Tiffany** – Asked if the sponsors want to be able to subdivide.
Vorce – That is likely.
Williams – Asked if subdivision of some of the lots might result in “pork chop lots.”
Vorce – They have to have 75 feet of road frontage.
Tiffany – Asked if the Planning Board usually goes along with citizen requests for smaller lots.
Vorce – This is in the Town overlay; the lowest density is R-40.
Snell – The tenet of planning is to create a hierarchy of zoning.
- Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Williams) (seconded by: Grause)
- Vote Carried unanimously
17. Article 49 (Zoning Map Change: LUG-2 to LUG-1; 8 Masaquet Avenue)
- Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
- Recused None
- Presentation **Vorce** – This is a citizen article for a single lot. There was no representation at the public hearing and has been continued to Feb 8.
- Discussion None
- Motion No action at this time.
- Vote N/A
18. Article 50 (Zoning Map Change: LUG-2 to LUG-1 Surfside South – Boulevarde, Okorwaw Avenue and Lover’s Lane)
- Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
- Recused None
- Presentation **Vorce** – This is a citizen article. There was no representation at the public hearing and has been continued to Feb 8.
- Discussion None
- Motion No action at this time.
- Vote N/A

19. Article 51 (Zoning Bylaw Amendment: Tertiary Dwelling)
- Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern
- Recused None
- Presentation **Vorce** – A limit was put at no more than 120 tertiary permits a year; we have had 12 so feel that limit can be eliminated. Received feedback requesting to change this to add not for profit, religious, and educational entities, and to allow a special permit for non-resident owner; the tertiary dwelling would still have to be occupied year round. It will also increase the footage from 550 to 650 SF.
- Discussion **Spery** – Asked how the enforcement on non-resident owned properties would be done.
Vorce – Would have to present facts that they have given and met the restriction. The public hearing has been closed and has a positive recommendation of the Planning Board.
- Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Williams) (seconded by: Grause)
- Vote Carried unanimously
20. Article 52 (Zoning Bylaw Amendment: ‘Tiny House Unit’ District)
21. Article 53 (Zoning Bylaw Amendment: ‘Tiny House Village’ District)
- Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern
- Recused None
- Presentation **Vorce** – Continued to Feb. 8; the main issue is coding change in regards to the portability of the units. A main reason for not supporting this last year was the issue of the structures being built on wheels. The sponsor doesn’t want that but does want it on a frame.
- Discussion None
- Motion No action at this time.
- Vote N/A
22. Article 54 (Zoning Bylaw Amendment: Secondary Lots)
- Sitting Kelly, Williams, Tiffany, Worth, Spery, Grause, McEachern
- Recused None
- Presentation **Vorce** – The public hearing has been closed and has a positive recommendation of the Planning Board. The original bylaw allowed the lot with the smaller lot/secondary dwelling be the covenant lot; some people want to do it the other way around; as a result we’ve adopted a standard of 40% of the lot. Also allowing a tertiary dwelling; a person can come in for a tertiary permit for one of the two lots; the covenant lot could have the tertiary dwelling. Explained the use of a tertiary structure on the covenant lot; it’s primary purpose would be to allow some income to that owner.
- Discussion **Kelly** – In the text it says, “if they wish to do so;” asked for an explanation of that.
Snell – The 150% covenant unit restriction requires occupation 10 months out of the year.
Worth – Once a person is qualified for the covenant program, he doesn’t have to continue demonstrating that he meets the 150% requirement.
Snell – You only have to meet that requirement at the time you are qualified. Noted that the covenant property has a cap on the resale price, so it might not be profitable to put the tertiary dwelling on that lot. There is no rental restriction on the tertiary structure.
Worth – Asked about the enforcement methods.
Vorce – Explained who monitors enforcement and the steps that would be taken upon discovery of a violation.
- Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Grause) (seconded by: McEachern)
- Vote Carried unanimously

23. Article 55 (Zoning Bylaw Amendment: Secondary Lots – Qualified Family Member)

24. Article 56 (Zoning Bylaw Amendment: Secondary Lots – Qualified Family Member)

Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern

Recused None

Presentation **Vorce** – These are citizen articles that were continued. They provide exemptions for conveying covenant homes to family members. Complications came up and the Planning Board is awaiting advice from Town Counsel.

Discussion None

Motion No action at this time.

Vote N/A

25. Article 57 (Zoning Bylaw Amendment: Major Commercial Development)

Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern

Recused None

Presentation **Vorce** – No action was taken on this, suggested coming back to it at a later date.

Discussion None

Motion No action at this time.

Vote N/A

26. Article 58 (Zoning Bylaw Amendment: Adult Use)

Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern

Recused None

Presentation **Vorce** – Received feedback from the Attorney General’s office, they pointed out a recent case that struck down another community’s adult-use bylaw; communities may regulate them but can’t restrict them to the point they aren’t allowed. Nantucket zoning only allows adult-use in CI and RC-2 districts. This also eliminates the arbitrary distances.

Discussion **Williams** – Asked about proximity to schools on Nobadeer.

Vorce – Adult use is still allowed in RC-2, which is being eliminated; at some point in the future, it might have to be allowed in another district like CN. The public hearing has been closed and has a positive recommendation of the Planning Board.

Motion **Motion to Support the Planning Board motion with a positive comment.** (made by: Sperry)
(seconded by: Williams)

Vote Unanimously

27. Article 59 (Zoning Bylaw Amendment: Abandoned Vehicles)

28. Article 60 (Zoning Bylaw Amendment: Miscellaneous Technical Changes)

Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern

Recused None

Presentation **Vorce** – These have been carried over.

Discussion None

Motion No action at this time.

Vote N/A

IV. WARRANT ARTICLES FOR 2016 ANNUAL TOWN MEETING (ATM)

1. Article 88 (Real Estate Acquisition/Conveyance of Parcels: Tom Nevers Head)
Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
Recused None
Presentation **Vorce** – The purpose of this article is to correct a missing deed associated with the transfer of property to the Town. It also allows the ability to convey the property to the Land Bank.
Discussion None
Motion **Motion to Recommend approval.** (made by: Grause) (seconded by: Williams)
Vote Carried unanimously
2. Article 89 (Real Estate Acquisition: 42 Nobadeer Avenue)
Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
Recused None
Presentation **Vorce** – This is a clean-up article for the property, an acquisition to establish a clear title so that it can be conveyed, as authorized under a separate article. This property was abandoned and a Town filed a tax taking in the 1980s. The owners of the main property are anxious to purchase it; through that process, back taxes will be paid.
Discussion **Worth** – Asked if this could be conveyed to somebody other than the owners of the abutting property.
Vorce – This does not meet Title 5 regulations so has limited livability at the moment so we are offering the minimum price; if someone offers a higher price, the Town will consider it.
Grause – Asked why the abutting owners settled for a U-shaped lot.
Vorce - There is another way to get title to it; that is to claim adverse possession over 20 years. Explained adverse possession.
Worth – Before we took action, we wanted to hear from the Real Estate Committee (REC).
Kelly – Asked for a recommendation from the REC through Mr. Vorce.
Motion No action at this time.
Vote N/A
3. Article 95 (Real Estate Acquisition: Woodbine Street)
4. Article 96 (Real Estate Disposition: Woodbine Street)
Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
Recused None
Presentation **Vorce** – These are companion articles. The Planning Board has closed and recommended a positive motion.
Discussion **Kelly** – We have heard citizens testimony on these articles.
Motion **Motion to Recommend approval of Articles 95 & 96.** (made by: McEachern) (seconded by: Grause)
Vote Carried unanimously
5. Article 97 (Real Estate Acquisition: Poplar Street)
6. Article 98 (Real Estate Disposition: Poplar Street)
Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern
Recused None
Presentation **Vorce** – These are duplicates of a prior article. Planning board recommended no action. The REC gave the same recommendation.
Discussion **Kelly** – We haven't heard from citizens; would like to hear from the REC.
Motion No action at this time.
Vote N/A

7. Article 99 (Real Estate Acquisition: 40 & 42R Sparks Avenue, 42 & 44 Sparks Avenue)

Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern

Recused None

Presentation **Vorce** – This is a citizen article for takings; the REC said they aren't weighing in on this.

Discussion **Kelly** – We need to have a conversation on their role, scope, etc.

Vorce – This land is owned by the town and it is more a policy issue. This needs to be reviewed by Town Counsel to ensure there is no duplication. Map/parcel 55-600 was already approved for purchase for cemetery purpose. For map/parcel 55-601, it is also not necessary it be included. Map/parcel 55-602 is the only issue; the only authority it has is for open space; that authority must change to grant it be conveyed for commercial use. Map/parcel 55-603 is under control of the school and the School Committee would have to rule it surplus and vote to transfer it to the Town; its authorized use is for school and road as voted by Town meeting.

Kelly – Asked why map/parcel 55-603 was added to the article.

Vorce – It would also be used as part of the funeral home business; there is a pond on the lot and it might have to go to the Conservation Commission for any construction.

Kelly – Asked for an outline on map/parcel 55-602 and that the sponsor should be notified that action is being taken.

Sperry – He is concerned about FinCom enabling a prospective non-profit to take possession of the land. In his opinion, it has a small chance of being profitable and feels it could expose the Town to financial liability.

Motion No action at this time.

Vote N/A

8. Article 100 (Real Estate Acquisition: Wanoma Way)

9. Article 101 (Real Estate Disposition: Wanoma Way)

Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern

Recused None

Presentation **Vorce** – REC recommend approval. Might want to see a map first.

Discussion None

Motion No action at this time.

Vote N/A

10. Article 102 (Real Estate Acquisition: Saccacha Avenue)

11. Article 103 (Real Estate Disposition: Saccacha Avenue)

Sitting Kelly, Williams, Tiffany, Worth, Sperry, Grause, McEachern

Recused None

Presentation **Vorce** – REC gave this a positive recommendation. It cures a zoning violation. The road is private.

Discussion **Kelly** – Asked if this creates a different lot size.

Vorce – Yes; the lot is at the end of dead-end sand road; the lot has a zoning violation for front-yard setback and the lot is undersized. The road is owned by multiple people; noted that one could argue that the road is owned by the heirs of the original 18 proprietors. The Town taking it is an easier and cleaner way to go forward.

Kelly – Asked what would happen if the next person wants the same.

Vorce – They could request a warrant article which would be reviewed and action recommended.

Worth – Noted that some private roads don't have conveyances of the road to the homeowners' association. Wonders if it is a good policy for the Town to enter into these situations.

Vorce – It depends on the location and the traffic needs. Generally a 40-foot-wide road lay out is for serving a large number of lots; not for small dirt roads.

Motion No action at this time.

Vote N/A

V. HOME RULE PETITION: LAND BANK WARRANT ARTICLES FOR 2016 ANNUAL TOWN MEETING (ATM)

1. Article 80 (Home Rule Petition: Real Estate Conveyances to Nantucket Islands Land Bank and Madaket Conservation Land Trust (MCLT))
2. Article 81 (Home Rule Petition: Real Estate Conveyances from Nantucket Islands Land Bank to Town of Nantucket)

Kelly – This is being held; the Nantucket Island Land Bank will make a presentation later in the month.

VI. NEXT MEETING DATE/ADJOURNMENT

Date: Thursday, February 4, 2016; 4:00 p.m. 4 Fairgrounds Road, Community Room

Topics: Discussion about whether or not to cancel the February 2 meeting; zoning and real Estate articles need not be addressed at the next meeting.

~~Tuesday, February 2, 2016; 4:30 p.m.; 10 Surfside Road, Nantucket High School Cafeteria~~
CANCELLED

Adjourned 6:16 p.m.

Submitted by:

Terry L. Norton