



**Town of Southern Shores
Regular Council Meeting
May 16, 2017**

The Town of Southern Shores Council met in the Pitts Center located at 5375 N. Virginia Dare Trail at 9:00 a.m. on Tuesday, May 16, 2017.

COUNCIL MEMBERS PRESENT: Mayor Bennett and Council Members Leo Holland, Chris Nason, Fred Newberry, and Gary McDonald.

COUNCIL MEMBERS ABSENT: None

CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE

Mayor Bennett called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and held a moment of silence.

AMENDMENTS / APPROVAL OF AGENDA

MOTION: Council Member McDonald moved to approve the agenda. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- i. Minutes-April 4, 2017
- ii. Surplus Resolution-Police Department

MOTION: Council Member McDonald moved to approve the Consent Agenda. The motion was seconded by Council Member Nason. The motion passed unanimously (5-0).

GENERAL PUBLIC COMMENT

Mayor Bennett called for public comment and the following citizens offered comment:

1. Carlos Gomez, 46 Juniper Trail, Southern Shores -streets are getting wider, streets need repair because of summer traffic and are not made for this type of traffic.
2. Debbie Newberry- 267 N. Dogwood Trail, Southern Shores -apologized that she spoke out of turn previous meeting. Mayor and Council Member Nason stated she was blowing things out of proportion and saying things that are not necessarily true. The goal is to let all citizens know what direction the Town is going and if the citizens want it, then so be it. Council needs to voice their vision and make some real hard choices.

Hearing no other citizen wishing to speak, the Mayor closed public comment.

[Clerk's Note: A copy of the public comment signup sheet is hereby attached].

OLD BUSINESS

Agenda Item:

Review of the FY 17-18 Proposed Operating Budget-Requested by Council Member McDonald

Council Member McDonald stated he had spoken with the Police Chief about the crosswalk lighting and the Chief stated there may be one more crosswalk that needed lighting. Council Member McDonald then stated he has noticed several not lit and moved to add \$10,000 to the budget for crosswalk lights, he stated to continue the process until the Town gets all crosswalks lit.

Mayor Bennett stated they are not yet finished installing all of the crosswalk light poles that are contracted.

The Town Manager stated there are eleven crosswalks already budgeted in the current year budget. Council Member McDonald replied that was for last year and he is talking about the coming year. The Town Manager explained that there are eleven crosswalks that the Town has permits for and which are budgeted, but all have yet to be installed. He also stated there is one other crosswalk that a citizen inquired about. The Town Manager stated he contacted the appropriate NCDOT engineer to see if that crosswalk at 108-A Ocean Blvd would qualify and he has not heard back yet. He also stated that if Council directs pole lighting at that particular spot it would cost approximately \$3,000 to install a pair. The other crosswalks cannot receive lighting as they are already under a traffic signal lighted area.

Council Member McDonald asked about the ones that are not at traffic lights. The Town Manager stated if they have a diamond crosswalk sign on it they are already scheduled to get the lights installed.

Council Member McDonald stated that his question is, are they already in the budget? The Town Manager stated they are already under obligated contract in the current year's budget. Council Member McDonald stated then they are all taken care of. The Town Manager stated yes except for the one from last week's inquiry that is not a marked crosswalk but perhaps would be eligible to become a marked crosswalk. If it does become eligible to be a marked crosswalk, then we would seek to obtain a permit to have lighting installed.

Council Member McDonald asked the Town Manager if he would need additional monies to install lighting at that single location. The Manager stated he could find the monies for the pair of lights (\$1,500 each) in the current budget, but to the best of his knowledge the district engineer would not be able to permit any other crosswalks for lighting.

Council Member McDonald stated at the last meeting Council approved \$150,000 for Pelican Watch out of the unrestricted fund for this year. If that bill comes active it is to pay for that. Councilman McDonald stated he did not know if that bill will come due this year and moves to put \$150,000 in next year's budget to cover that and fund it and plan for it instead of taking it out of the unrestricted fund. He stated even if gets used out of the unrestricted fund, that budget item would go back into the fund to offset that. Not sure how much we will be reimbursed for storms moving forward and need to protect our unrestricted fund as well as we can and plan for those things. We are not going to get reimbursement like we have in the past. He recommended placing \$150,000 in the budget, find it and place it back into the unrestricted fund even if it comes out this year.

Mayor Bennett asked Council Member McDonald if he was talking about the beach nourishment project or storm mitigation.

Council Member McDonald replied that \$150,000 for beach nourishment is being used out of the unrestricted fund. The Mayor clarified that Council Member McDonald meant the undesignated fund balance. Council Member McDonald stated Council took it out at the last meeting or approved using it to pay or offset what Pelican Watch will pay. He remarked it may not come out this year and will go back into the fund and Council would have to appropriate it again. If Council budgets for that item and going forward plans for that type of thing. It is planning our money and not just

going to the fund balance and pull something every time we need it. He further stated we need to plan for beach nourishment and instead of taking the fund balance to a low end, plan for it.

Mayor Bennett replied that at the last meeting Council agreed to allocate those funds from this current year and if the project is delayed we would move the funds by putting those funds back in and take it out for next year. The Mayor called on the Town Manager to verify.

The Town Manger stated the \$150,000 that Council approved was a budget amendment. The amount that is represented, \$150,000 for this current year, is there to be the cash flow if the bills start to come due before July 1st, which is a possibility. If that money is not paid out it would automatically revert back in to unassigned fund balance. After July 1st, the Council would need to approve another budget amendment to pull that money back out of unassigned fund balance to pay the additional \$150,000 in next fiscal year. The Town Manager stated on another note, one of the designated uses of the Capital Reserve Fund is beach nourishment, and that Fund can be used for beach nourishment or whatever infrastructure project the Council chooses each year as part of the budget process.

Council Member McDonald stated he understands that but Council is still not planning for it and is pulling it out of the savings account. He stated we are going to need it even if the \$150,000 is paid out this current year. The \$150,000 will be to pay back the unrestricted fund balance to reimburse what was pulled out.

Council Member Nason stated it was his understanding that the \$150,000 paid by the Pelican Watch assessment automatically goes back into the undesignated fund when paid. Council member McDonald stated that's going in to the budget.

Council Member Nason stated that it is fairly certain that the owners of Pelican Watch will pay the assessment and that monies will go directly back into the fund. He stated if everyone pays it will be neutral.

The Town Manager clarified by stating the \$150,000, as it comes in from the special assessment, automatically go in to the unassigned fund balance back because it is not budgeted as a revenue.

Council Member Nason stated having a line item for beach nourishment is not a bad idea as the beach profiles will need to be kept up.

Council Member McDonald stated that the Town will be taking out half a million dollars for the Pelican Watch beach nourishment project. Council Members Nason and Holland both stated that \$150,000 of that will be paid back. Council Member Holland stated cash flow-wise that is correct in that \$500,000 will be taken out but \$150,000 is coming back, so the net flow is \$350,000. Council Member McDonald stated we will not see the \$150,000 for five years out. Council Member McDonald stated we are loaning the money out so budget it. Mayor pro tem Newberry stated exactly.

Mayor pro tem Newberry stated he supports Councilman McDonald and cannot see taking money out of the undesignated fund until we actually need it. In the meantime, Council should be budgeting, in this case he stated the \$150,000 for paying the bill for beach nourishment at Pelican Watch. Arbitrarily just taking money out of the undesignated fund is not a good idea unless you absolutely need it. Those reserves need to be built up more based on what we are hearing out of Washington as far as next year's budget. He stated he has a feeling the Town will be budgeting for its own disaster relief fund because the money is not going to be there from the federal government, primarily FEMA and other agencies as well. He stated Council should put the \$150,000 back into the fund this year and budget for it next year so Council can keep that fund as healthy as possible.

The Town Manager stated that the capital reserve fund, if the budget passes as proposed, would carry a projected amount of \$200,000 which is for infrastructure, including beach nourishment.

Council continued to discuss the unlikelihood of storm reimbursement in the future.

Council Member Nason stated this would be a valid point for the following year's budget. He stated then we will be able to see what kind of reimbursement we can expect to see.

The Mayor stated we can direct the Town Manager to put that in the following year's budget.

Council Member McDonald stated he feels it should be included in FY17-18 budget and he made a motion.

MOTION: Council Member McDonald moved to place \$150,000 in next years' budget for the Pelican Watch project as a line item and if not used, reverts back to fund balance. Mayor pro tem Newberry seconded the motion.

Council Member Nason asked where is that money coming from in the budget. He stated he is not against it if Council can reasonably find the money and Council should ask the Town Manager to come up with suggestions on where to find the money.

The Town Attorney interjected by stating Council is in a weird procedural posture with the budget process. He explained that several Council meeting sessions had been conducted and the Manager's Budget amended. He stated once the Town Manager formally filed his proposed budget which he has, it is then advertised and available for public inspection. The submitted Manager's Budget has been inspected by residents in preparation for comment at the Public Hearing already scheduled for June 6, 2017. Town Attorney Gallop stated Council can plan, but it would be wise of Council to hold off making any motions to amend the proposed budget until after the Public Hearing and budget ordinance time. He stated once the Public Hearing is completed, then Council can change whatever they want as long as it is adopted before July 1st.

Council Member McDonald stated he would then like Council to direct the Town Manager to bring options for the \$150,000.

MOTION: Council Member McDonald substituted his original motion with a motion to direct the Town Manager to provide options on how to come up with finding \$150,000 (beach nourishment) in the existing budget and advise Council of that at the Public Hearing and Budget Ordinance time. The motion was seconded by Mayor pro tem Newberry. The motion passed unanimously (5-0).

Council Member McDonald stated he has one more change but may need to wait until after the Public Hearing.

The Town Attorney stated there is no reason not to discuss it and let everyone hear the concept.

Council Member McDonald stated he may make some friends or make some enemies with what his motions are going to be for this. Over years working with budgets and trying to be fair to employees and people. He stated first he would like a definition of what a merit bonus is. He asked if it was an across the board bonus, or if it is not he would like to know if it's based on something else.

The Town Manager stated it is a merit one-time bonus based on merit, it does not go into the base salary and will not be applied equally across the board. It was placed that way in the budget for accounting purposes.

Council Member McDonald stated that is a total of approximately \$33,000 (COLA & merit combined) and twenty-three staff members. He stated the guys at the bottom always tend to get the least because you are getting a percentage increase. He would look at giving an across the board raise instead of a percent and an across the board bonus instead of a percent. That way

everyone gets an equivalent raise across the board. \$33,000 divided by twenty-three staff comes to \$1,452. He stated that is his recommendation to just give everyone an equal raise and is more equitable across the board.

The Mayor stated it may be more equitable but may not be more fair. For the most part, those people that draw the higher salaries have more responsibilities. He stated it is nice to give the people at the lower level scale some consideration but if you make it a total level playing field you end up punishing the ones at the top that actually produce the most for your company or the most for your Town. He further stated that he thinks the way it was done by the Manager was probably fair, equitable itself, and not accommodating any one more than the other.

Council Member McDonald stated he worked state government for four years and there were times when us at the top didn't get anything and those at the bottom got pay raises. It really did upset him and he didn't think it was fair but folks at the top have a little more tendency to survive than folks on an hourly wage.

Mayor pro tem Newberry stated if you look at it from a percentage basis the higher-level people are going to continue to get a lot more money and their base salaries are going to go up significantly from year to year. For the people at the bottom it is going to be pretty slow. He stated what he thinks Council Member McDonald is saying is to provide that incentive for the people at the lower levels to help them normalize some of the pay.

The Town Manager stated he can run the scenarios both ways for Council and have it at the Budget Public Hearing and Budget Ordinance time.

Council Member McDonald stated about 80% of staff would benefit better by this proposal and it is only a small percentage that will receive less.

The Mayor asked if Council had any other budget items to discuss.

Council Member McDonald stated he would like a fund balance sheet with monies that have been appropriated out when Council does budget. He stated he received it by email but would like it in the book.

The Town Manager stated he can show the audited balance and then the budget amendments that have come out the last twelve months.

NEW BUSINESS:

None

GENERAL PUBLIC COMMENT

Mayor Bennett again called for public comment and the following citizens offered comment:

1. Carlos Gomez, 46 Juniper-could save money with road design, postpone changes and collaborate resources.

COUNCIL MEMBERS' COMMENTS AND RESPONSES

Mayor Bennett called on Council to see if there was any other business they wanted to discuss.

Council Member McDonald stated he would like to discuss what the town is doing with paving and the trees again.

Mayor pro tem Newberry stated he had some comments too.

Council Member McDonald referenced an article about Sunset Beach and their street improvements consisted of rain gardens and swales to capture the storm water runoff from the roads. He stated our Town's standards are to use low impact standards. The perception of low impact standards differs from person to person; however, he thinks Council needs to set what they think they need to do. He stated for example, the Town is putting in curbs and gutters and then have to purchase land to reroute water to fix a mistake that we enhanced by putting in curbs, gutters and sidewalks. He stated Council needs to look really good at these projects and keep as much nature as possible. He said with Juniper Trail a sidewalk was installed and the residents knew it would flood because it runs downhill and to the right where the sidewalk is and the water has no place to go. The same engineer that the Town now has was working with Quible back then and they put it in. He stated he can't remember how many trees were cut down at that time but it was a poor design. Council ten years down the road does not want to fix something that the current Council messed up.

The Mayor stated to Council Member McDonald is that you want to take a look at the roads policy and procedures.

Council Member McDonald stated the Town has made too many mistakes; Trinitie Bridge, Deer Path, and Gravey Pond all had mistakes.

Council Member Nason stated that Trinitie Bridge was not the Town it was the State, as in NC 12 is a State Highway too.

Mayor Bennett stated as far as Deer Path and Gravey Pond, you can't point fingers at policy and procedures as they had structural issues caused from the contractor's materials which no one had control over.

Council Member Nason stated when a contractor doesn't execute there are consequences.

Mayor Bennett stated, or when the contractor's supplier doesn't execute there are consequences.

Council Member McDonald stated the bottom line is the public thinks it is the Town.

Council Member Nason stated he has no problem continuing this discussion and he repeated from before that the Town Engineer should be present and tell the Council what his vision of low impact is. He stated he thinks the engineer should be present to hear some of these concerns in a constructive and respectful manner.

Mayor pro tem Newberry stated he supports both of the speakers this evening. He stated Council needs to take a look at the standards again and he doesn't see how they are low impact. Everything he has read on low impact does not include curbs and gutters, unless they are just absolutely necessary and he doesn't think that has been the case for Southern Shores. Council should open the standards to the public and let them have a say. He is hearing a lot of rumbling going on and he would like to avoid the same situation from a couple years ago at Dogwood intersection, Fairway Drive, Scuppernon and other places where the community voiced their opinion and were displeased with the action the Council took, and the Council was insensitive. As a matter of fact I think a lot of that divided people in the Town. We all live here, work here, we are neighbors and need to get along. Council should listen and if the public doesn't want something then Council shouldn't force it on them. This Council did a really good job of listening to the Pelican Watch people, we were sensitive to their concerns and Council took action and in the long run did the right thing. When it comes to streets, taking trees down, protecting the maritime forest, he believes Council has done a lousy job. He stated he has not heard anyone say a curb and gutter are a nice thing to have. Most people detest them. Our road construction has taken down trees that have been there more than a hundred years and those trees have a definite benefit. The trees absorb a lot of water. One of the most important things is the ambiance in Southern Shores and that's why people move here. The vision that David Stick had should be preserved. The first place

to start is look at our standards and define low impact. Swales and curbs and gutters are not low impact and cutting hard wood trees that have been there 100 years is not low impact development.

The Town Manager announced that the Town Engineer is scheduled to come to the July 5th meeting, which is Council's Infrastructure Improvement matter on the agenda that night. He stated he has already spoken to the engineer and asked him to prepare to discuss with Council about the standards that evening.

The Town Manager stated until the Council does what Mr. Newberry stated and adopts its own Southern Shores low impact development standard there will always be the same interpretation challenge every time on every project. Until Council directs there shall never be a curb or gutter and take it out of the engineer's decision making process, there is always going to be an argument. Until Council says there shall never be a tree taken down it is going to be in the engineer's decision making process. On this particular project (Juniper Trail), staff has heard from one resident, Mr. Gomez. One resident is being opposed to what was designed there. There are no retention ponds on that project, he has mentioned that. The curb there is a mountable curb which are placed at street intersections to protect the asphalt. It keeps from having to come back each year and fix the asphalt from vehicles chipping it away. If Council wants to ban them entirely that policy will be implemented immediately, but at this point it is not a standard. The mountable curb is a low impact development standard and the engineer is designing that. He further stated that low impact development standards industry wide do not ban or prohibit curbing. The low impact mountable curb has been installed on every occasion, including Fairway Drive. If Council wants to adopt specific standards, they will be implemented immediately as they will take out the guess work.

Council Member McDonald stated he knows the Town Manager was not here at that time but it is his understanding that the sidewalk on Juniper Trail was put in for safety reasons, and he understands that. But the issue is water pooling on the roads and that is just poor design and mistakes were made and it should have been fixed. That is not about the design issue that is about common sense. He stated he will ask one question and that is is both engineers coming, more specifically is Joe (Joe Anlauf) coming?

The Town Manager stated Deel Engineering will have all his staff present.

Council Member Nason stated rain gardens and swales are only an option if there is enough room. If not, you have to rely on homeowners to give the Town an easement which is not always the case. Curbs are also sometimes used for a safety issue. They may produce pooling of water but may be saving a life. It is a difficult decision and let's hear from the engineers.

Mayor pro tem Newberry stated if we are hearing from the Town Engineer why can't we hear from some other engineers and hear their opinion as well. Maybe there should be a public forum like we did for beach nourishment to educate the public. Engineers will interpret standards directly. He further stated that he thinks Southern Shores standards are headed toward big city type construction and he doesn't think that's what residents want.

The Town Manager repeated again saying until Council sets more specific standards of what not to have, there will always be a debate about it. He stated for sure two engineers will debate when to use a curb or not but it falls on the Council to decide that.

Council Member Holland stated we can debate the past issues and point the fingers of where mistakes were maybe made but that is history. Council needs to look to the future. Council does not need to over react and say no curbs. Is that the right thing to do on every project? Each project is going to be different. There has to be a balance somewhere in there. He stated on Spindrift a curb needed to be installed to move water to another direction and it worked, it did what needed to be done. We have to be careful what we wish for because we may get some consequences that we do not want. If you do not do curbs and streets crumble, then residents are going to complain why didn't we do it right the first time. Council needs to take time and study the standards and

come up with what is right. All of Council wants to do what is right but let's not overreact to it either. He would like to know how some of the other Towns in county are addressing this issue.

Council Member Nason stated it is true that you will not please everyone. The bulkhead issue when staff had to literally take a picture of every tree that they were taking down to prove that it was growing through the bulkhead and they had to excavate and show this. That is a little extreme that they had to show this and do that. It feels like sometimes you are better off doing nothing to the street, not improve them and the reason why is we are going to get complaints.

Council Member McDonald replied let's just pave them.

Council Member Nason continued by saying any movement will cause complaints but Council needs to find a way to discuss them and move forward.

Council Member Holland stated the big issue is we can say or do nothing but then it becomes a safety issue and we have a big liability potentially on our hands. Some of these big trees in the right of way if a car hits them or one comes down on a car driving by, you can bet we are writing a big check. If we knowingly leave a safety issue it is a big liability. He stated don't get me wrong and I love my trees but I look at two things, they are either an asset to me or they are a liability. If they are a liability to me and near my house they will be gone.

Council Member McDonald stated he agreed. When you fix something, you don't break it. We aren't fixing things we are messing it up in several cases and we are actually receiving the criticism of trying to repair damage that was done and where and who I'm not blaming. We are just stating some facts here. If you look at different projects they are not done correctly and that's my point.

Council Member McDonald stated that when the Manager meets with the citizens on the street being improved, notice of what trees are being cut needs to be done in advance. I emailed Peter and he called and took care of it and had the engineer meet me on site to deal with it. Is it the way I would fix it, no. The process is in place and probably too late. The point is we need to give notice in advance if the trees are going to be cut. If they are going to cut trees in our yard, yes we are going to question it.

The Town Manager stated that is possible if that is the standard that Council wants. Staff sends letters and gives the homeowner an opportunity to attend the meeting and the trees being cut are clearly marked on the plans for review. If Council wants to direct on-site signage as a standard that is something to consider.

Mayor Bennett stated this is an ongoing inherited situation. Streets in Southern Shores were built to minimal standards as far as street construction measures are concerned. They satisfied and did the job but over time street construction, not always the best, did not pay attention to design and storm water management allowing the water to run off onto whoever's property it wanted. Even then you were not supposed to do that but know you cannot put street water or town water onto any private property. That's the reason why Fairway Drive became such an extensive project. The Town was dumping thousands of gallons of storm water onto Duck Woods Country Club for a quarter of a mile. He stated every resident, except one on Scuppernong, was happy to have the street rebuilt. The one resident was not happy because it took trees from what she thought was her front yard. It was not her front yard it was Town right of way, so we are dealing with situations we did inherit and have to make the best of it. If the Town is going to do street improvements then there is an obligation to correct storm water issues, we are required by law to do that. He stated he is amenable to discussing the standards and looking at them carefully and if Council wants to change them, then we direct staff to do that. That takes care of part of the problem. Council still has an overriding, overarching safety consideration we have to weigh very carefully on everything we do. We have to weigh the public's interest as far as safety.

Mayor pro tem Newberry repeated that Council should bring in other engineers and suggested the engineer from Sunset Beach.

Council Members Nason and Holland both stated they would like to hear from the Town Engineer first.

Mayor pro tem Newberry stated he is going to disagree with the Town Engineer. What is going on is the public and common sense is just ignored and he doesn't care if it is so called best engineering practices, we have to find alternatives. Putting curbs in is a waste of money, a lot of maintenance, destroying the ambiance of the community and low impact development can be done without curbs and he would like to hear from some environmental engineer firms. He further stated he can hear from the Town Engineer and then go with a formal motion to have a public forum and invite in some other engineering companies and some landscape environmentalists. There are rumblings in the Town that we are destroying the streets and the ambiance and he doesn't like it. He stated the project at NC12 and East Dogwood is an absolute disaster. That is the biggest sore eye, he is embarrassed that tourist come up and down that street seeing that big ol pond over there and what kind of impact is that going to have in the future. The mosquito problem is going to be atrocious. Solving one problem may have been accomplished but he thinks another is being created.

Mayor Bennett stated Mr. Newberry was creating a situation that is based off of speculation without the facts of what is going to end up there. We have not seen the finished product yet.

Mayor pro tem Newberry stated he can see a big pond full of water and he owns property down there and he drives by it every day and thinks why did Council do this.

Council Member Nason stated the reason it was done because several members of the community asked for it to be addressed right away because it was a safety issue and danger.

Mayor pro tem Newberry stated his point is we are taking the advice of one engineer and maybe Council should talk to others to get their opinions.

Mayor Bennett stated we did not take advice from one engineer. The Town consulted with NCDOT which owns the property where the problem was being created and they worked very closely on that. NCDOT looked very closely at the project and had to approve it.

Mayor pro tem Newberry stated we need to be concerned with the future.

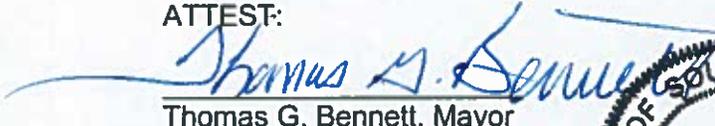
Mayor Bennett stated that he hears one side from people and Mayor pro tem Newberry hears a side. The Mayor said he needs to weigh one thing that is overlooked here. Except for Highway 12, the Town is responsible for its streets and the public safety on those streets, the storm water on those streets, and Council needs to weigh everything very carefully in protecting our residents essentially from themselves and things we didn't take care of and that is an overriding consideration. It is our responsibility as a Town and sometimes we need to do more rather than less.

ADDITIONAL COUNCIL MEMBERS' COMMENTS AND RESPONSES:

Council Member McDonald stated we need to accept that we need to agree to disagree at times and move forward as a whole. At General Public comment period Council needs to be respectful of the individual, their ideas, concerns and need to listen to them. He also stated that the NC12 and East Dogwood is a catch basin and if it fills up there are many children in that area and Council has created a liability. It may have to be fenced in. The Mayor said the project is not finished as landscaping is to be done. Council Member McDonald stated it is deep and a child might drown if he gets in there before its finished.

MOTION: Council Member Holland moved to adjourn. The motion was seconded by Council member McDonald. The motion passed unanimously (5-0). The time was 7:00 pm.

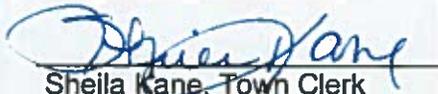
ATTEST:



Thomas G. Bennett, Mayor



Respectfully submitted,



Sheila Kane, Town Clerk