

KURE BEACH TOWN COUNCIL

CONTINUED MEETING
January 18, 2007

MINUTES

The continued meeting of the Town Council of the Town of Kure Beach was held at Town Hall at 7:30 pm on January 18, 2007. A quorum was present. At the regular meeting on January 16, 2007, a motion was made to continue the meeting to January 18, 2007 at 7:30pm to allow council and staff to attend the viewing of former Mayor Betty Medlin.

COUNCIL MEMBERS PRESENT:

Mayor	Tim Fuller
Mayor Pro Tem	Mac Montgomery
Commissioner	Jim Dugan
Commissioner	Bill Ufferman
Commissioner	Dean Lambeth

COUNCIL MEMBERS ABSENT:

None

STAFF PRESENT:

Building Inspection	John Batson
Police	Dennis Cooper
Finance	Susan Suggs
Town Clerk	Nancy Avery
Public Works	Sonny Beeker

STAFF ABSENT:

Fire Department Harold Hegler

Town Attorney A.A. Canoutas was in attendance.

CALL TO ORDER

Mayor Fuller called the meeting to order at 7:30 p.m. Mayor Pro Tem Montgomery delivered the invocation, after which he led everyone in the pledge of allegiance.

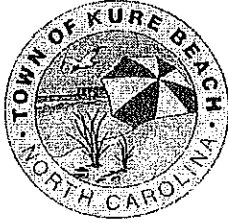
RECOGNITION AND AWARDS: None

PERSONS TO ADDRESS COUNCIL:

1) Emily Swearingen spoke on behalf of herself and Lori Harris regarding the Special Olympics Polar Plunge. Ms. Swearingen explained the event as well as the purpose of the Special Olympics. The event will take place in Carolina Beach on Saturday, February 17, 2007 from 11am to 3pm, with the plunge taking place at 3pm. Ms. Swearingen stated:

- Mayor Fuller and Mayor Clark of Carolina Beach have committed themselves again this year to participate in the plunge.
- The money raised will be used for uniforms, equipment & travel money for the Special Olympics teams.

2) Since Peter Boulter was not present to present the Tucker Square rezoning request, the item was deferred until it could be discussed under New Business Item #3.



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3) Auditor's Opinion – Greg Adams from Thompson, Price, Scott and Adams & Co., presented to council a summary of the audit and stated the following:

- the Local Government Commission has not released the audit pending correction of the release date to 2/15/07 in the contract
- the percentage of undesignated fund balance of 64.15% is considered average for a town the size of Kure Beach.
- The percentage of Ad Valorem Tax Collections for the current year of 92.97% is considered above average for a town the size of Kure Beach.
- feels the town is moving in a positive direction.

The draft audit is herein incorporated as part of these minutes as attachment A.

4) Tom Humphrey of Jack Mackerel's Restaurant addressed the council stating:

- he requested Planning and Zoning to waive requirements of the ordinance regarding noise control, parking and alcohol consumption for his restaurant during May 4-5, 2007, when the Parrot Heads will hold their annual meeting on the island.

Mayor Fuller stated that the only thing Planning and Zoning would be responsible for deciding is the waiver of the parking ordinance. Otherwise, the noise and alcohol ordinance requirements need to be decided by council.

Mayor Pro Tem Montgomery said that a restaurant was different than a bar or tavern, since it primarily served food. He was concerned about where, outside, the alcohol would be consumed.

Mayor Fuller asked that this matter be added to the agenda for the February council meeting to be discussed further.

APPROVAL OF CONSENT AGENDA

1. Council Minutes: 12/19/06 regular and 12/19/06 public hearing
2. Police Report: December 2006
3. P & Z draft minutes: January 2, 2007
4. Fire Chief Report: December 2006
5. Building Inspector Report: December 2006
6. Finance Report: December 2006
7. Town Clerk Report: December 2006
8. Report of surplus equipment: July through December 31, 2006



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ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to approve the consent agenda with no changes or additions. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ADOPTION OF THE AGENDA

Commissioner Ufferman asked to add an item under Old Business regarding revising the auditor's contract delivery date to February 15, 2007.

ACTION – Commissioner Ufferman MADE THE MOTION to adopt the Agenda along with the requested additions. Mayor Pro Tem Montgomery seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

DEPARTMENT HEADS' ITEMS TO PRESENT TO COUNCIL

Building Inspection Department: No items

Finance Department:

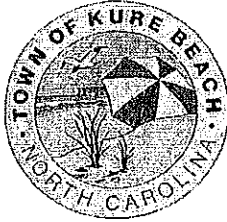
1. Consideration of amendments to Section 10-16 of the Code of Ordinances regarding license tax/decals.

- Finance Officer Suggs asked council to change the wording of the amendment to allow the purchase of decals to go until March 31st before a penalty was added. Also, that it should be made clear in the amendment that the extra \$10 for the decals is a penalty added to the \$5 decal charge.
- Commissioner Dugan suggested that the word 'volunteer' be deleted from the description of the Fire Department at the same time, for future provision.

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to adopt the article as presented to council and to drop the word 'volunteer' from the Fire Department wording. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Said amendment is herein incorporated as part of these minutes as attachment B

2. Commissioner Dugan asked council to consider the request to purchase commercial washer and dryer for the Fire Department at the cost of approximately \$8,000.00. He explained that this new washer and dryer would be used exclusively to wash the firemen's uniforms to rid them of carbon build up and other harmful chemicals which can cause deterioration. Since each fireman's outfit costs \$2,000, washing them properly will allow them to last longer and save the town money in the long run. The money would come from the previous year's fund balance.

- Ann Brodsky, town resident, suggested that the town also buy the extended warranty.



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ACTION – Commissioner Ufferman MADE THE MOTION to purchase a commercial washer and dryer for the Fire Department at the cost given and to amend budget item#8 to provide for the purchase. Mayor Pro Tem Montgomery seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Fire Department: No items.

Police Department: Police Chief Cooper passed out an informal email to council from Andrew Curd, his Motorola representative, regarding the new radios being purchased for the Police Department. He expects to receive the radios by the beginning of February.

Public Works Department: Director Sonny Beeker listed the items being worked on by Public Works.

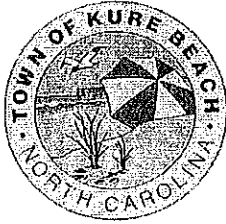
- The sewer rehabilitation project is almost complete. The town is responsible for the clean up.
- The water tanks construction will take place from January 31st – March 15th.
- A picnic table will be installed at Joe Eakes Park next week.
- The fence at the I Avenue beach access will be completed soon.
- A tentative date of Saturday, February 24th, was suggested for the official park reopening.
- It was requested that town paving be extended from G Avenue to E Avenue on 5th Street.

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to extend the paving on 5th Street from G Avenue to E Avenue at an approximate cost of \$25,000 to be paid for with Powell Bill funds. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Town Clerk: Town Clerk Avery asked the council to consider the adoption of the record retention schedule to comply with NC Department of Cultural Resources, Division of Archives and History.

- Each department head would be responsible for adhering to the retention schedule for their department's files. This would prevent the build up of files in the future.
- As Town Clerk, she would be responsible, overall, for monitoring the retention of records.

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to adopt the record retention schedule to comply with the NC Department of Cultural Resources, Division of Archives and History. Commissioner Ufferman seconded the motion. THE VOTE OF



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APPROVAL WAS UNANIMOUS. Said scheduled is herein included as part of these minutes as attachment C.

COMMITTEE REPORTS OR ITEMS TO PRESENT TO COUNCIL

EOC: Chairperson David Heglar submitted to council the Exercise Drill Schedule for Emergency Management.

- These exercises will be closed to the public and the schedule shouldn't be put on the town's website.
- He would like council to approve a letter to citizens for hurricane planning and then have May meetings with the citizens of Kure Beach.
- Input from council and staff for what the letter should say should be given to Mr. Heglar by February 21st, so that he can present a letter for approval at the April council meeting.

ADA Committee: Chairperson Gilbert Alphin requested permission to mark non ADA-compliant sidewalks on Fort Fisher Blvd and K Avenue.

- The walkways are on Ft. Fisher Blvd from N to E Avenues, and on K Street from Ft. Fisher Blvd to 7th Street. These walkways are hazardous.
- Commissioner Lambeth will provide marking paint, and requested that the ADA Committee be responsible for marking the offending walkways so that Public Works can take care of them appropriately.
- Eventually, the town hopes to fix the hazardous walkways and also to install sidewalks on the north side of K Street, from Ft. Fisher Blvd to Settler's Lane.

ACTION – Commissioner Ufferman MADE THE MOTION that the ADA Committee work with the Public Works department to mark non-ADA compliant sidewalks as referenced above. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Beautification: Committee member Barry Nelder told the council that the committee was be visiting the Bald Head Island Conservancy to see their plantings and get ideas for Kure Beach.

Citizen Beach Protection: Chairperson Tom Barber thanked the Police and Fire Departments for helping his mother during a recent emergency.

- The dredging is currently taking place on Carolina Beach and, by the end of the month, Kure Beach will begin to see equipment being set up for the dredging on the town's beach.



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- The committee prepared a news release for the newspaper regarding the beach renourishment. A copy of that news release is on the Town Hall Bulletin Board, as well.
- The committee asked council to consider resolution R06-18, banning Beach Vitex. This resolution was reviewed and approved by Town Attorney Canoutis. Mayor Pro Tem Montgomery recommended removing David Nash's name from the resolution. It was agreed to do this.

ACTION – Commissioner Ufferman **MADE THE MOTION** to remove David Nash's name from resolution R06-18 and to approve the revised resolution to ban Beach Vitex. Commissioner Lambeth seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.** Said resolution is herein incorporated as part of these minutes as attachment D.

- The committee asked council to consider an amendment to Chapter 12 Parks & Recreation, Section 41 of the Code of Ordinances regarding the banning of Beach Vitex.

ACTION – Mayor Pro Tem Montgomery **MADE THE MOTION** to approve the amendment to Chapter 12 Parks & Recreation, Section 41 of the Code of Ordinances to ban Beach Vitex from the Town of Kure Beach. Commissioner Lambeth seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.** Said amendment is herein incorporated as part of these minutes as attachment E.

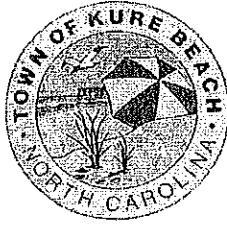
- The committee submitted to council a Beach Vitex Eradication Program. Consensus of council was that this document would be used internally only. Said Eradication program is herein incorporated as part of these minutes as attachment F.

Community Center: No report

KB Marketing Advisory: No report

Shoreline Access and Parking: Chairperson Chuck Keener asked council to review the recommendation regarding proposed parking on K Avenue.

- The committee is recommending a round-about on K Avenue. This plan will add parking spaces and will extend the current sidewalk.
- The town will need an engineer drawing to submit to the NCDOT.
- Commissioner Dugan recommended scheduling a work session to discuss the proposal.



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- Mayor Pro Tem Montgomery said that the Town Clerk should mail notifications of this meeting to all residents that will be affected by this proposal. This would be all residents who live along K Avenue, from Settlers Lane to 3rd Street.

ACTION – Commissioner Ufferman **MADE THE MOTION** to schedule a work session to discuss the parking proposal on Tuesday, February 13th at 6:30pm, and to request that the Town Clerk send notification letters to all effected residents. Mayor Pro Tem Montgomery seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

- The committee asked council to adopt an amendment to the Code of Ordinances making it unlawful for any person to park or leave standing on any beach public access parking area any motor vehicle between the hours of 1:00am and 5:00am between the months of April 1 and October 1 of each year with a penalty of \$25.00.

ACTION – Mayor Pro Tem Montgomery **MADE THE MOTION** to approve the amendment under Section 10-227 of the Code of Ordinances. Commissioner Ufferman seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.** Said amendment is herein incorporated as part of these minutes as attachment G.

Chairperson Keener updated council on the progress of the town's grants:

- The bike racks are being ordered and should be installed by May 30th
- The ADA parking ramps will be installed next week.
- The bid requests went out today for the Community Center parking lot project, with a 2-week deadline to receive responses.
- The 3 fast-track grants for which the town applied in November all came back declined.
- The next cycle for CAMA grants starts on February 28th.

Parks & Recreation Advisory: No report

Storm water: Chairperson Eric Vann said that his committee is waiting on two ordinances from the government to use as a blueprint to develop a town storm water ordinance regarding post construction on new and re-development.

60th Anniversary: No report

RECESS – Mayor Fuller announced a recess at 9:15pm. Recess ended at 9:25pm, at which time Mayor Fuller called the meeting back to order.



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OLD BUSINESS:

Commissioner Ufferman requests that council revise the audit contract's delivery date to read February 15, 2007.

ACTION – Commissioner Ufferman **MADE THE MOTION** to revise the auditor's contract delivery date to read February 15, 2007. Mayor Pro Tem Montgomery seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

NEW BUSINESS:

1. Mayor Fuller said that the ADA committee had requested the consideration of a draft amendment to Chapter 5 Building Regulations, section 66 to the Code of Ordinances regarding a motor-driven vehicle on the beach strand. This will allow privileges to certain vehicles used by handicapped individuals. ADA Chairperson, Gilbert Alphin was asked to meet with the other committees which will be affected by this amendment, then bring the draft recommendation back to council.

ACTION – Mayor Pro Tem Montgomery **MADE THE MOTION** that the item be tabled and considered at February's council meeting, following subsequent review of all of the other committees' opinions and input. Commissioner Dugan seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

2. Commissioner Dugan asked the council to consider a proposal to update the telephone wiring to digital at Town Hall, the Police Department, Fire Department and Public Works to include purchase of new phones for those facilities, as well. The approximate cost is \$12,518. Town Clerk Avery noted that, currently, we are limited to the amount of phone lines we can have and limited in equipment replacement since the only model of telephone that can be used is no longer manufactured. Mayor Fuller suggested that the town add this purchase onto the 2007-2008 budget discussion and defer it until the next fiscal year.

ACTION – Mayor Pro Tem Montgomery **MADE THE MOTION** to add this purchase onto the 2007-2008 budget discussion and defer the expenditure until the next fiscal year. Commissioner Ufferman seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

3. Commissioner Lambeth read Planning and Zoning's recommendation to deny the rezoning request for Tucker's Square. Mayor Pro Tem Montgomery stated that it probably would have been better if the petition had been written to request RA-1A, instead of RA-1 rezoning. He also said that better notification should have been given to the surrounding homeowners of the public hearing.



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The following homeowners addressed council regarding this issue:

Mr. Darren Sims – He would like the petitioners to have more time to reapply for the correct zoning. He thinks the neighborhood's safety will be jeopardized if duplexes are built, resulting in more traffic in their community.

Mr. Carl Buchanan – He noted that, because neighborhood blocks couldn't be split up in the rezoning, other neighborhoods that were never an issue were incorporated into the rezoning map. The petitioners never intended some of the areas put on the map to be rezoned, but that's the way that Planning and Zoning had to define it.

Mr. Shane Elbel – He feels that the bigger issue in the minds of those people against the rezoning proposal has to do with money. He feels that developers are out to make as much money as possible and, therefore, don't want the property rezoned.

Mr. Chuck Mullins – He stated that all of the residents of Tucker Square should have known when they bought their houses that the surrounding neighborhoods were zoned for duplexes. He opposes the rezoning and urged council to deny the request for reconsideration.

ACTION – Mayor Pro Tem Montgomery **MADE THE MOTION** to:

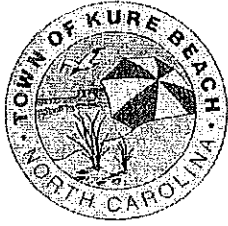
- allow the petitioners to amend their request to a RA-1A zoning and redefine the area to be included
- return the amended request to Planning and Zoning for reconsideration
- direct the Town Clerk to notify the affected neighbors, by registered mail, should council schedule a public hearing
- charge the petitioners for the cost of the mailing

Commissioner Dugan seconded the motion.

THE VOTE CARRIED FOUR TO ONE as follows:

Mayor Fuller, Mayor Pro Tem Montgomery, Commissioners Dugan and Lambeth in favor, and Commissioner Ufferman against.

4. Commissioner Lambeth asked council to consider Planning and Zoning's recommendation to remove the abbreviated subdivision process from Chapter 19 of the Code of Ordinances. Commissioner Lambeth requested a public hearing be held on February 13, 2007, at 7:30pm to discuss this issue and the Town Attorney needs to have the draft ordinance written by January 29th.



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ACTION – Commissioner Lambeth MADE THE MOTION to schedule a public hearing at Town Hall on February 13, 2007, at 7:30pm, or soon thereafter, to consider Planning and Zoning's recommendation to remove the abbreviated subdivision process on zoning from Chapter 19 of the Code of Ordinances. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

5. Commissioner Lambeth asked council to consider Planning and Zoning's recommendation on minor changes to Chapters 15 and 19 of the Code of Ordinances regarding the number of copies of plats required by developers. He requested that the number of copies of plats be changed from 5 to 15. He asked that a public hearing be held on February 13th to discuss this.

ACTION – Commissioner Lambeth MADE THE MOTION to hold a public hearing at Town Hall on February 13, 2007, at 8:30pm to consider Planning and Zoning's recommendation on changes to Chapters 15 and 19 of the Code of Ordinances regarding the number of copies of plats required by developers. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

6. Commissioner Lambeth asked council to consider Planning and Zoning's recommendation to re-appoint Janet Foster to another 5 year term.

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to re-appoint Janet Foster to another 5 year term on the Planning and Zoning commission. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

7. Mayor Fuller asked the council to consider the nomination of Frank Rush for the vacancy on the Coastal Resources Advisory Council; a committee appointed by the Coastal Resources Commission. Mayor Fuller said that Wrightsville and Carolina beaches have already approved his nomination and that he'd like Kure Beach to also join along with them in the approval.

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to approve the nomination of Frank Rush for the vacancy on the Coastal Resources Advisory Council. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

8. Since the streetlight assessment for south of K Avenue was not available in time for the meeting, Mayor Pro Tem Montgomery suggested a postponement of discussion on this issue until the February council meeting.



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ACTION - Mayor Pro Tem Montgomery **MADE THE MOTION** to postpone the discussion of the streetlight assessment for south of K Avenue until the February council meeting. Commissioner Ufferman seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

9. Mayor Pro Tem Montgomery asked council to consider a request to transition to either having an Administrator or changing to a Town Manager/council form of government. He suggested that the council should appoint Mr. Jim Vatr to research this proposal, along with Ms. Mo Lindquist. Mayor Pro Tem Montgomery and Commissioner Dugan would be the town liaisons. The committee will aim for April as the time they will submit their findings to council. Commissioner Dugan said he is not convinced that the Town needs an Administrator/Town Manager now, but it should be a serious consideration for the future. Should the Town change to a manager/council form of government, it is obligated to remain that way for 2 years.

ACTION – Mayor Pro Tem Montgomery **MADE THE MOTION** for the appointment of Jim Vatr and Mo Lindquist, working in conjunction with Mayor Pro Tem Montgomery and Commissioner Dugan, to undertake this study. Commissioner Ufferman seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

PERSONS TO ADDRESS COUNCIL:

None

COMMISSIONERS' ITEMS:

Commissioner Dugan recognized the passing of our former mayor, Betty Medlin, on January 13, 2007, and acknowledged the outpouring of help that the family received from concerned citizens.

Commissioner Dugan reported that a local store was recently broken into while its owner was out of the country and that a citizen of Kure Beach was able to capture and detain the violator until the police arrived.

ATTORNEY'S ITEMS:

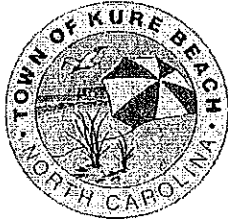
No items.

MAYOR'S ITEMS:

Mayor Fuller echoed Commissioner Dugan's sentiments regarding Betty Medlin.

PERTINENT ITEMS WHICH MAY REQUIRE COUNCIL ATTENTION:

No items.



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CLOSED SESSION:

ACTION – Commissioner Ufferman MADE THE MOTION to go into closed session at 10:25pm for the purpose of consulting with the town attorney regarding a law suit filed against the town. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION -- Mayor Pro Tem Montgomery MADE THE MOTION to adjourn closed session at 11:10pm and return to open session. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

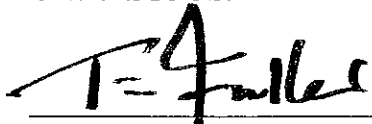
ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to move \$20,000.00 from the general fund reserve fund to legal fees. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to direct the Town Attorney to prepare to defend the BOA and the Building Inspector in the appeal filed against the BOA decision regarding SF Holdings. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

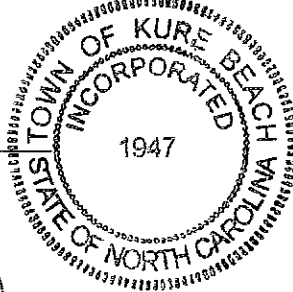
ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to approve a non-specific contract with attorney Holt Moore. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

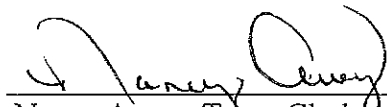
ADJOURNMENT

ACTION – Commissioner Ufferman MADE THE MOTION to adjourn at 11:15pm. Mayor Pro Tem Montgomery seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.



Tim Fuller, Mayor



ATTEST: 

Nancy Avery, Town Clerk

Minutes prepared by Nancy Hewitt, Administrative Assistant