



TOWN COUNCIL MINUTES

REGULAR MEETING

July 18 & 25, 2017 @ 6:30 p.m.

The Kure Beach Town Council held their regular meeting on Tuesday, July 18, 2017 at 6:30 p.m. The town attorney was present and there was a quorum of council members.

COUNCIL MEMBERS PRESENT

Mayor Emilie Swearingen
Mayor Pro Tem (MPT) Craig Bloszinsky
Commissioner David Heglar
Commissioner Joseph Whitley
Commissioner Jim Dugan (via phone 7/25)

STAFF PRESENT

Building Inspector – John Batson
Finance Officer – Arlen Copenhaver (attended 7/18 & 7/25)
PW Crew Leader – Jimmy Mesimer
Town Clerk – Nancy Avery (attended 7/18 & 7/25)
Deputy Clerk – Nancy Hewitt

CALL TO ORDER

Mayor Swearingen called the meeting to order at 6:30 p.m., and Rev. Tommy Williams of Williams Gospel Ministries delivered the opening invocation and led everyone in the Pledge of Allegiance.

APPROVAL OF CONSENT AGENDA ITEMS

1. Fire Department Report – June 2017
2. Building Inspections Report – June 2017
3. YTD Finance Report Meeting
4. Minutes:
 - June 20, 2017 Special Meeting
 - June 20, 2017 Closed Session (sealed)
 - June 26, 2017 Special Meeting

MOTION – Commissioner Heglar moved to approve the Consent Agenda Items, as presented.

SECOND – Commissioner Dugan

VOTE – Unanimous

ADOPTION OF THE AGENDA

MOTION – Commissioner Heglar moved to adopt the meeting agenda, as presented.

SECOND – MPT Bloszinsky

VOTE – Unanimous



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DISCUSSION AND CONSIDERATION OF PERSONS TO ADDRESS COUNCIL

1. Debbie Elliott – 290 Seawatch Way

Ms. Elliott stated the following:

- She is attending on behalf of the Seawatch HOA as they have been trying to find a more affordable way to irrigate their landscaping.
- She learned that the town can install an irrigation meter, but it costs \$4K as opposed to the much lower cost of the same type of meter in Carolina Beach and the county.
- She heard council set the rate high in order to help the town conserve water, which she doesn't understand because, if she had an irrigation meter, she doesn't think she would use any more water to irrigate her property than she already uses.
- She doesn't have a big yard but pays over \$400/month for water during the summer months and about \$70/month in winter.

Commissioner Heglar said the position he has encouraged council to take is that people shouldn't be using the town's limited water supply for irrigation. He said he is against increased water usage for lawn irrigation because 1) the treated, chlorinated water is going on the ground, so there are runoff issues; 2) sooner or later the East Coast is going to have the same problem with water that California is having; and 3) the Wrightsville Beach well aquifer now has Gen-X in it because they're pumping so much water out of it that, hydraulically, it's pulling in water from CFPUA's aquifer. He said council should be encouraging conservation any way it can. He said Carolina Beach is irresponsible for pricing their irrigation meters so low because they are hitting people who use water and sewer services for regular use the hardest and encouraging people to use it for irrigation.

Ms. Elliott asked if council is going on the record that none of the town's 2,000 citizens should have the opportunity to irrigate their lawns.

Commissioner Heglar said council hasn't said no to irrigation meters, and anyone is welcome to pay to have one installed; but council is shifting the cost of water/sewer away from the people who use it for regular things to the people who are spraying it on their lawns.

Ms. Elliott said she feels she is being unfairly burdened, financially, and she has invested a lot of money into the landscape that council is discouraging her from irrigating.

MPT Bloszinsky said council wants the people who use the most water to pay the most for it.

Ms. Elliott said she not only pays for the water that goes on her lawn, but she pays for the sewer portion, as well. She wants to have the opportunity like everyone in the county to be able to purchase an irrigation meter that is priced reasonably.



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Commissioner Heglar asked her if she sees what is happening in southeastern NC and other parts of the country with water, specifically California where people not only stopped irrigating but also actually removed their irrigation lines because of water shortage issues.

Ms. Elliott said she feels Commissioner Heglar has an agenda he is promoting.

Commissioner Heglar said his personal position is that water across the globe is a limited resource that continues to be stressed, and anyone who is in a position to help reduce that stress should do so.

Ms. Elliott said that she does everything she can to reduce the amount of water she uses to irrigate her lawn but, dollar-for-dollar, every study she has ever read says that landscaping is going to improve her property value. She said many people in the community have invested in landscaping and now they are footing the bill on water.

Mayor Swearingen said she is the strongest environmentalist on council and did a study in college that showed an overwhelming issue among leaders in the state was water quality and quantity. She said conservation of natural resources should be one of the number one concerns of this country, and she will always vote on the side of conservation. She said that sod isn't indigenous to the town nor southeastern NC, and there are people who have found other ways to make their lawns look beautiful without it.

Ms. Elliott said she gets the feeling that, because she has put in a landscape that brings her joy, she is not considered an environmentalist.

Commissioner Heglar denied inferring that and said he supports the citizens of the town in doing whatever they want, but he believes, as the Public Works commissioner, that council should enact a financial policy and rate structure that encourages conservation of water. He explained the history of water/sewer rates and tier increases in the town.

Ms. Elliott said that council has made it so that she has to pay a \$4K lump sum for the meter, with no opportunity to pay for it over time. She said it is out of the reach of most people in the town to pay for it.

Commissioner Heglar said a \$4K cost is not out of the reach of anyone in Kure Beach.

Ms. Elliott said she didn't have \$4K in her bank account for an irrigation meter, to which Commissioner Heglar repeated, "For an irrigation meter." He added that he is pretty sure she and most of the people who live in the town could get financing for it, if they wanted. He said that the people he has talked with in town are pleased that council is looking after fixed-income citizens and is focused on the long-term implications of over usage of the town's water supply.



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MPT Bloszinsky said that the town's water supply is most stressed during this time of year with full motels and people irrigating their vegetation, so opening up the gates will lead to problems.

Ms. Elliott reiterated that her water usage wouldn't change if she got an irrigation meter.

Commissioner Heglar said he would email information to her to forward to those who want it.

DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Marketing Committee

Mayor Swearingen said she asked Shawn Braden from the Tourism Development Authority (TDA) to see if the TDA can do a study to determine how many visitors come to Kure Beach during the tourist season from April to October. She said it may cost about \$75K-\$100K, but the results could help council go to its legislators to show why the town can't support sharing its sales tax dollars with other towns. She said it would show that our small amount of citizens are supporting a huge amount of tourists each year through their own tax dollars.

2. Planning & Zoning (P&Z) Commission

Chairman Ellen said he read the highlights of the recent community survey and identified five issues on which P&Z can work.

Mayor Swearingen asked Mr. Ellen to check with council to see what they think about the ones he wants P&Z to work on, since he wasn't at the council meeting to hear what was said when the highlights were reviewed.

2. Shoreline Access and Beach Protection Committee

Chairman Panicali shared the following about his committee:

- They now have a full committee membership and can get back to being fully engaged on topics they were working on previously.
- All of the beach access points have been adopted under the Adopt-a-Beach program, and the beaches are in better shape for it.
- A number of people keep bringing up the possibility of having more crosswalks, especially at the corner of K Avenue and Fort Fisher (421) Boulevard. The committee would like council to spend more time looking into this possibility.

Mayor Swearingen asked Commissioner Dugan to check with the police chief to see how he feels about the crosswalk and to ask him why the lines weren't painted at some of the crosswalks along 421.

Commissioner Whitley said the police chief told him that one of the phone poles at the intersection would have to be moved, and having a crosswalk button there could cause traffic backups on 421 during the tourist season.



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Commissioner Dugan said the police have noticed a significant increase in people trying to cross at crosswalks and cars not stopping for them.

MPT Bloszinsky said Carolina Beach now has some solar-lighted crosswalks, to which the mayor added they cost a huge amount of money.

Mr. Panicali said he thinks it's important for council to consider its liability and study the effectiveness and cost of a crosswalk at the corner of K Avenue and 421 before there is a serious accident. He said a push-button system would be more effective than just having crosswalk lines painted across the intersection.

3. Non-town Committee Reports

Mayor Swearingen requested that the deputy clerk prepare a letter for her to sign, formally requesting that Deborah McKenna, the Cape Fear Disabilities Commission liaison, attend the council meeting, as she hasn't responded to previous requests to attend.

DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

1. Administration and Recreation

Town Clerk Avery announced that Deputy Clerk Hewitt has notified the town that she will be retiring and her last day will be August 18, 2017. She thanked Ms. Hewitt for "her 10+ years of exemplary service to the town."

2. Building Department

Inspector Batson said he went to the Coastal Resources Commission (CRC) meeting this past Wednesday to present the map of the town's proposed Development Line, but the CRC would like three areas on the map to be revised before they approve it. He said they would pass it unanimously, if council agrees to revise these areas. He reviewed the areas in question and asked council to give him permission to have the surveyor redraw these areas before presenting it to the CRC again.

Bill Moore, a board member on with Ocean Dunes HOA, said the board has already talked with Inspector Batson on how the revised line near their community will affects things, so they are aware of the issues.

MOTION – Commissioner Heglar moved to approve the revisions and give permission to Inspector Batson to have another survey drawing showing the three revised areas in order to satisfy the request made by the CRC during their July 12, 2017 meeting.

SECOND – Commissioner Whitley

VOTE – Unanimous



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3. Fire Department

Commissioner Dugan reported that the lifeguards successfully rescued a 17-year old boy from drowning. He said the boy was hanging onto pilings under the pier before the lifeguards rescued and revived him. He said the boy was sent to the hospital in critical condition but is okay now.

MPT Bloszinsky said that this rescue should be considered a very significant action.

Commissioner Heglar said Assistant Chief Kennedy will attend the August council meeting to address the rescue.

4. Police Department

Commissioner Dugan said new surveillance cameras have been installed in the downtown area in a number of different locations.

5. Public Works Department

Crew Leader Mesimer said the water sample from the town's aquifer, to see if GenX is in the water, has been taken and Public Works is waiting on results that should be here in about a week.

Shifting subjects, Mayor Swearingen asked Inspector Batson if he inspects motels and other large buildings in town for structural/safety issues, in light of the recent condominium condemnation in Carolina Beach. Inspector Batson said public areas and larger structures get fire inspections, at which time these issues would be reported, as well as staircase and egress issues.

Commissioner Heglar said that buildings owners also have a responsibility to have safety inspections performed on their buildings.

DISCUSSION AND CONSIDERATION OF OLD BUSINESS

1. Interview of firms submitting Request for Qualifications (RFQs) for a project manager for the town facility expansion and new construction project

Commissioner Dugan welcomed the five firms that submitted RFQs, stating council will interview them one at a time. He asked the firms not being interviewed to wait their turn outside of the council room so as not to have an unfair advantage over firms being interviewed first.

Commissioner Heglar said this project will be the biggest expenditure the town has ever made, so council is going to move very slowly and carefully with the process.

As each firm was interviewed, council explained to them that they want to hire a project manager in about three weeks to help the architectural firm choose a construction contractor for the job.

a. George Keenan, Keenan Construction & Consulting

- The company consists of him and his son, and they are currently working on several small jobs.



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- He worked with the City of Whiteville for 13 years, so he understands the budgets of small towns.
 - He already sees problems with the laydown area being a few blocks from this project.
 - Hasn't had a job that they didn't finish, even if he lost money.
 - Plans to be on the job daily at first to see how the people work together, the workmanship and to learn to trust them.
- b. William Noland, Noland Construction Consulting
- He worked on \$70M project that began in 2012 for a government center that went well, so they asked him to oversee construction of a vehicle maintenance building.
 - The first thing he would do is see the contracts and the projected timeframe, and look close at the job site to compare it to the architectural plans.
 - About 60 percent of the responsibility of a project is the architect's, and 40 percent is the general contractors.
 - He will be on the job once or twice a week, but not on a regular schedule.
 - He doesn't like having to attend meetings where reports and minutes are made.
- c. Chris Lumpkin and Drew Brown, Constructive Building Solutions, LLC
- They have been working together for 15 years in construction management, project management and providing expert testimony for construction litigation.
 - Early on, they will set up management tools to take project meeting minutes, develop a master project schedule and manage Request for Information (RFI) reports; all important to keep future problems at bay.
 - Mr. Lumpkin is not an engineer, but he has real world experiences with construction project phases and dealing with people.
 - They will manage quality and bring the full team together very early in the process.
 - They will be onsite heavily during the pre-construction phase and at the beginning of the project but, once the systems are in place and the process is running smoothly, they won't need to be onsite as often.
- d. Ethan Crouch, Construction Interface Services
- He has a Master's degree in construction management and works as a project manager on these types of jobs.
 - The role of the project manager is to be the owner's representative, fill the communication gaps and look out for the interest of the town.
 - He will keep track of the quality of work with onsite inspections, and he will review the plans and specs, including an execution component where problems can arise.
 - He said there are three phases of quality control: preparation meetings that produce signed minutes before a specific job is performed, an initial inspection of the job and a follow-up of the completed job, afterwards.



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- It should be a written requirement in the general contractor's contract that they have to have written components (reports/documentation) included in the building process.
- e. Chris McLuckie and Justin Jacobson, MBP
 - They are an agency construction management firm whose job it is to assist an owner to manage construction work and document the project.
 - Their responsibility is to protect the town by operating on the set budget to manage the project, keeping it on schedule and getting the job done.
 - They manage RFI responses, pay attention to change orders and make sure schedules are kept.
 - There should be a thorough constructability review where they look at the full set of plans to make sure they coordinate with all other drawings so they can make sure the project is economically feasible to be constructed the way the architect has drawn it.
 - They will make constructive, meaningful comments about the architectural plans to see if there may be more cost-effective ways to do something.

With interviews complete, Commissioner Heglar suggested finishing the rest of the agenda items and then continuing the council meeting to next week to allow council time to process the firms' information and decide what to do next.

Mayor Swearingen asked Attorney Canoutas if it would be all right for council to discuss, in closed session, the contract and the individual qualifications of the project manager candidates, to which he responded it would be all right to do this in closed session.

2. Paid Parking Update

MPT Bloszinsky said the three pay-parking lots brought in \$1,060, gross, during their first 12 hours of service. He said they will get another report at the end of the month.

Mayor Swearingen said she'd like council to put together an ad hoc parking committee to review all aspects of parking in the town and provide council information they need to decide on a course of action for paid parking.

Discussion ensued whether appointing a temporary committee was necessary, or if council should be responsible for deciding themselves on the course of action.

Commissioner Dugan said the police chief is already evaluating any ordinances that need to be changed for parking.

MPT Bloszinsky said that council should take Mr. Powell's study that he did for the town and add the test parking program's data to it for review.



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After further discussion, Mayor Swearingen asked council to think about who and what process, would be involved in putting parking information together for council and asked the clerk to put the topic on the August council meeting agenda.

DISCUSSION AND CONSIDERATION OF NEW BUSINESS

1. Adoption of Resolution R17-14 and amendment to Chapter 3 on Alcoholic Beverages in the Code of Ordinances to allow sale of alcoholic beverages before noon on Sundays at licensed premises

Commissioner Whitley said he talked with the managers of Jack Mackerel's and Big Daddy's who are both in favor of council allowing alcohol to be served on Sundays, beginning at 10:00 a.m., as it would be good for business. He said they are worried their customers will go to Carolina Beach's restaurants to enjoy this freedom, otherwise.

MPT Bloszinsky said he hasn't talked to the owner of the Island Kwik Mart yet, but he would conclude that he would like the opportunity to sell alcohol before noon on Sunday, too.

Commissioner Heglar said that the people he drinks with at Jack Mackerel's are in favor of it, the business owners are in favor of it, the churchgoers aren't in favor of it and the majority of people in town don't care either way. He said the Kure Beach "brand" that has been built over the years is that the town is a family beach and the town should stand out by not approving it.

Commissioner Dugan said the majority of feedback he has gotten from people is they don't care. He said he is in favor of doing it because the town shouldn't be in the business of trying to regulate two hours out of a seven-day week that allows alcohol consumption every other day of the week during that time of day.

Council was reminded that a two-thirds majority vote is needed to pass an ordinance on its first reading, but only a simple majority is needed to pass it on its second reading.

MOTION – Commissioner Whitley moved to adopt Resolution R17-14 to allow the sale of alcoholic beverages before noon on Sundays at licensed premises and to adopt a new ordinance in the town's code as Section 3-4, Regulating hours of certain alcohol sales within the town limits.

SECOND – Commissioner Dugan

VOTE – FAILED, as follows: Mayor Swearingen and Commissioners Whitley and Dugan FOR, and MPT Bloszinsky and Commissioner Heglar AGAINST.

Discussion ensued on whether the ordinance could be read a second time and a vote taken again at the continued portion of the council meeting next week. Council asked the clerk to research this and let them know.



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MOTION – Commissioner Heglar moved to continue the regular council meeting until Tuesday, July 25, 2017 at 6:30 p.m., to discuss the qualifications of the project manager candidates. Council will also have a second reading and vote on the proposed resolution and new ordinance regarding alcohol consumption on Sundays, if it can be done at the same meeting on a different day.

SECOND – Commissioner Dugan

VOTE – Unanimous

Mayor Swearingen asked council to read the information she provided them from the Wilmington MPO and asked them to approve travel for her to attend a meeting in Atlantic Beach with the governor and coastal mayors regarding seismic testing and oil drilling in the ocean.

COUNCIL CONSENSUS – Council directed the mayor to proceed with her government-related travel and submit her expenses for reimbursement.

This portion of the meeting ended at 9:56 p.m.

OPENING OF CONTINUED MEETING

Mayor Swearingen brought the continued meeting back to order at 6:30 p.m. on Tuesday, July 25, 2017. There was a quorum of council and the attorney was present.

Council held a special meeting on July 21st to have a second reading and vote on the resolution and ordinance amendment regarding the service of alcohol at 10:00 a.m. on Sundays.

DISCUSSION AND CONSIDERATION OF FINANCE DEPARTMENT BUSINESS

Finance Officer Copenhaver requested adoption of Resolution R17-15, and reviewed the financing terms of the compact excavator for Public Works.

MOTION – Commissioner Heglar moved to adopt Resolution R17-15, approving financing terms with First Bank for the purchase of a compact excavator for the Public Works Department at a cost not to exceed \$63,915, an interest rate of 1.8% and a four (4) year term

SECOND – MPT Bloszinsky

VOTE – Unanimous

Said resolution is herein incorporated as part of these minutes.

MOTION – At 6:31 p.m., MPT Bloszinsky moved to go into closed session per N.C.G.S. 143-318.11(3), attorney-client privilege.

SECOND – Commissioner Heglar

VOTE – Unanimous



TOWN COUNCIL
TOWN OF KURE BEACH, NC

RESOLUTION R17-15

**APPROVING FINANCING TERMS WITH FIRST BANK
FOR COMPACT EXCAVATOR**

WHEREAS, The Town of Kure Beach (“Town”) has previously determined to undertake a project for a compact excavator (the “Project”), and the Finance Officer has now presented a proposal for the financing of such Project;

NOW, THEREFORE, BE IT RESOLVED THAT

1. The Town hereby determines to finance the Project through First Bank, in accordance with the proposal dated July 24, 2017. The amount financed shall not exceed \$63,915.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.8% and the financing term shall not exceed four (4) years from closing.
2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary, or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer’s release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document’s final form.
4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment



TOWN COUNCIL TOWN OF KURE BEACH, NC

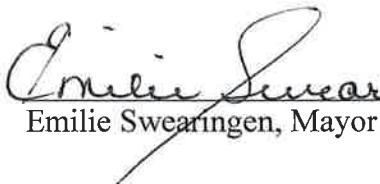
RESOLUTION R17-15

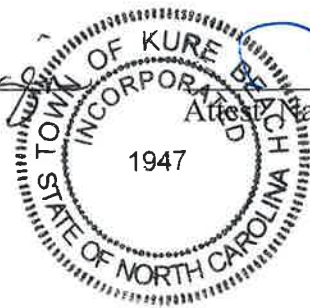
obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the First Bank financing described above. The Town intends that funds that have been advanced, or that may be advanced from the Town's general fund, or any other Town fund related to the project for project costs, may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Adopted by the Kure Beach Town Council this 25th day of July, 2017.


Emilie Swearingen, Mayor




Attest: Nancy Avery, Town Clerk



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MOTION – Commissioner Heglar made the motion to return to open session at 7:09 p.m.

SECOND – Commissioner Whitley

VOTE – Unanimous

DISCUSSION AND CONSIDERATION OF PROJECT MANAGER RFQs

Commissioner Heglar stated council feels there are numerous excellent candidates for a project manager for the town’s facilities project, which is good.

After reviewing the five firms’ qualifications, council’s consensus is that Constructive Building Solutions is the top candidate, and they directed Commissioner Dugan and Town Clerk Avery to enter into negotiations with that firm to provide more information, including references and a financial quote for the project. Council said they would review the quote to determine if it is acceptable or decide if they should move on to the next most qualified firm.

MOTION – Commissioner Heglar made the motion to direct Commissioner Dugan and Town Clerk Avery, with assistance from Finance Officer Copenhaver, to enter into negotiations with Constructive Building Solutions for the town’s facilities project.

SECOND – MPT Bloszinsky

VOTE – Unanimous

ADJOURNMENT

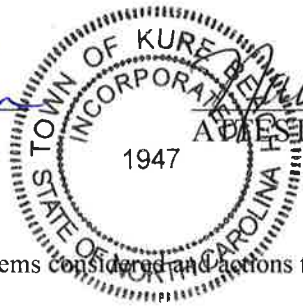
MOTION – MPT Bloszinsky moved to adjourn.

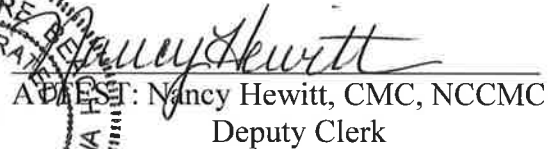
SECOND – Commissioner Heglar

VOTE – Unanimous

The meeting adjourned at 7:12 p.m.


Emilie Swearingen, Mayor




Nancy Hewitt, CMC, NCCMC
Deputy Clerk

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting.