

TOWN COUNCIL
Municipal Center Council Chambers
July 2, 2024, 1:00 pm

Minutes

I. **Call to Order:** *Mayor Belt called the meeting to order at 1:05 pm.*

II. **Pledge of Allegiance**

III. **Roll Call:**

Present at the Meeting: Bradley Belt, *Mayor*
Russell Berner, *Mayor Pro Tem*
Michael Heidingsfelder, *Council Member*
Luke Farrell, *Council Member*

Absent: Madeleine Kaye, *Council Member*

Also Present: Stephanie Tillerson, *Town Administrator*
Dorota Szubert, *Finance Director*
Mac McQuillin, *Town Attorney*
John Taylor, Jr., *Planning Director*
Brian Gottshalk, *Public Works Manager*
Bruce Spicher, *Building Official*

IV. **Approval of Minutes:**

A. Minutes of the Town Council Meeting of June 4, 2024

Council Member Heidingsfelder made a motion to approve the minutes of the June 4, 2024, Town Council meeting. Council Member seconded the motion.

Following the notation of some minor typographical errors, the motion was unanimously approved.

V. **Citizens' Comments (Agenda Items Only):**

Maura McIlvain – 146 Blue Heron Pond Road

Maura McIlvain addressed several topics: she requested materials for the East Beach Club franchise agreement discussion with Kiawah Partner be made public, sought clarification on debris management and disposal, which was to include covering roll-offs on construction sites when not in use and addressing its enforcement, appreciated the codification of a solution for handling council member resignations, and thanked the Council for improving the terms of the Tetra Tech Disaster Monitoring contract.

VI. **Update – MUSC – Dr. Patrick Cawley**

Dr. Cawley apologized via email for his absence and plans to attend the August meeting in person.

Ms. Tillerson indicated that she had a phone conversation with Dr. Cawley and was able to provide an update on the current status of the MUSC project. She stated the project is still under site plan review with the Town, with the primary pending items being the satisfaction of an encroachment agreement from the Town of Seabrook and the receipt of a letter from the Freshfields ARB. With confirmation from the landscape architect, Mr. Taylor can proceed with signing off on the site plan once the documents are received. With the site plan approved, the state will handle further building reviews. Dr. Calley anticipates mobilization within 2-3 weeks after receiving the necessary approvals, aiming for a 2025 schedule.

Mayor Belt added that based on a recent conversation with the Mayor of the Town of Seabrook Island, there are no anticipated issues with the encroachment agreement that cannot be resolved promptly. However, it has not been signed off yet.

VII. Updates:

A. Mayor

Mayor Belt provided updates on several ongoing items that continue to be the subject of inquiries to the Town as follows:

- The pending litigation filed on May 10th involving the Town, the Kiawah Conservancy, and the Community Association.
 - An Executive Session is scheduled to receive advice and counsel on the next steps following a counterclaim and motion to compel arbitration.
 - The litigation aims to protect public access to Beachwalker County Park, preserve and protect the highlands of Sam's Spit, and local wildlife habitat.
- Status of the Cape Club parking issue and the site plan review of the Ocean Pines, Cape Road Extension, West End, and Upper Beachwalker projects. - No change in status from the last meeting
 - The Town's Planning Director has issued comment letters
 - The applicant believes that the planning director has erred in making certain determinations
 - The next step would be to appeal to the Board of Zoning Appeals
- Mail delivery services – United States Postal Services (USPS)
 - It is a federal entity - the Town has no direct responsibility for or authority over the USPS
 - The Town requested improved services and is addressing mail delivery service issues by communicating with the USPS, the Inspector General in Columbia, city and county counterparts, and political representatives
 - The issue is not unique to Kiawah and is a widespread problem caused by broad staffing-related issues.
 - A new postmaster for John's Island began in June
- Efforts to combat the increase in second-generation anticoagulants affecting wildlife, particularly bobcats
 - Reenergizing the Bobcat Guardian Program,
 - Directly reaching out to pesticide providers and various regimes to recommit to the program
 - Legal limitations on regulating pesticide use, but does not preclude potentially private parties, such as KICA (Kiawah Island Community Association), from restricting the use of SGAs (Second Generation Anticoagulant)

B. Council Members

Mayor Pro Tem Berner provided updates on the following:

- Shibumi Sunshades
 - At the Public Safety Committee meeting, Mr. Michael Sosnowski with Beach Patrol indicated they had a sight problem looking down the beach and that it was a safety issue, suggesting getting rid of the Shibumis.
 - The Public Safety Committee unanimously voted to ban Shibumi Sunshades, but it requires gathering more data and information along with further discussion by the Town Council
- Beach Walkover Planking
 - protects the dunes
 - planking system that is movable and rolls ups
 - Suggested it be required to be installed on the beach.
- Measures to improve Beach Patrol truck safety
 - Mr. Sosnowski discussed the Myrtle Beach accident at the Public Safety Committee
 - Similar blind corners at beach access locations where a vehicle is entering the beach

- Suggested roping-off areas around the beach access aisles to make sure that nobody will be lying down in those areas.
- The implementation of traffic control buttons to prevent accidents at Little Rabbit Lane
- Addressing trash and litter issues in off-leash dog areas, collecting at the high-water mark
- Completed a podcast collaboration with the Lowcountry Land Trust and the Conservancy
- Reports about lights at The Cape facilities shining on the beach, affecting turtle hatchlings
 - A notice has been provided to East West Partners to see how they can get those lights turned off
- The need to raise a flooded bike path on the Parkway

Council Member Farrell followed up on the SATAX meeting discussion of the Charleston Visitor Bureau (CVB) budget being considered for approval later in the meeting. He noted that he was impressed that the CVB brought five representatives to talk about what they do, how they do it, and their budget numbers, along with bringing a lot of data to help support that they are doing an excellent job. Not everyone on the SATAX Committee agreed with some of the directions the CVB was taking, but they seemed to agree that, overall, they were doing a very decent job.

Council Member Heidingsfelder provided comments on the following topics:

- Captain Sam's Spit Litigation
 - In addition to the Mayor's earlier comments, he expressed frustration with South Street Partners' inactivity regarding Captain Sam's and the parking issues of the Beachwalker Drive properties. He emphasized that the response to a lawsuit filed by the community against the Partners to comply with the ARDA (Amended and Restated Development Agreement) was not only frustrating but without substance. They basically declined every topic mentioned in the lawsuit, showing an unwillingness or ability to come to the table to discuss the problems logically and with common sense.
- SGAs
 - He was notified that after KICA consulted with their attorneys, KICA is unable to prohibit the use of SGAs on the island and supported more communication to reenergize the Bobcat Guardian Program along with legal strategies to protect local wildlife.

Council Member Heidingsfelder and Mr. McQuillin discussed what seemed to be misinformation regarding potential lawsuits against residents for engaging in conversations with town officials. He also asked that Ms. Tillerson and Mr. McQuillin provide updates on three topics:

- 1) The safety issue on the leisure trail to Freshfields, highlighting severe safety risks due to water stagnation after storms, possibly due to drainage problems.
- 2) The status of Ms. Slater's FOIA (Freedom of Information Act) request – Mr. McQuillin indicated that the documents were ready and had just received her email on how she wanted to receive them
- 3) What plans are proposed to manage traffic and enforce parking restrictions at the Beachwalker Park area and the East Beach Club entrance, especially during the upcoming July 4th celebrations?

Council Member Heidingsfelder asked that Mayor Belt address the following topics:

- 1) There have been discussions regarding the provision of a permanent EMS truck in Kiawah, involving Charleston County EMS, St. John's Fire Department, and the need for funding and

organizational support. Despite promises for a proposal on funding from Mr. Eric Watson, no updates have been received. In response, Mayor Belt reviewed the first of the three action items coming out of the meeting, which had been addressed; nothing had been received from the County, but Ms. Tillerson would follow up.

- 2) The status of the implementation of a conflict-of-interest policy that was discussed in 2023, highlighting the need for a policy that reminds employees and volunteers of its existence and compliance requirements

Council Member Farrell stated that the Public Works department was addressing the flooding issues on the bike path. Mr. Gottshalk had a contractor inspect the drainage system and found the pipes plugged. He is now working on an RFP to solicit bids for the work and is also looking to see if there are County special program funds to help offset the project's cost.

C. Administrator

Ms. Tillerson provided updates on the following:

- The new contract with Trident has resulted in higher garbage collection rates, with bills going out in the second week of this month.
- The KiawahNext project is progressing. The subcommittee is working with staff to potentially have the final draft ready for the Planning Commission by September or October.
- The Town and the Mayor of Seabrook submitted a joint letter for the Segment C Main Road project. The County received over 400 comments and is preparing them for review by the County Council.
- All residential buildings in The Cape, except building 400, have received their CO (Certificate of Occupancy); to date, building 400 was due to coordinating fire alarm and sprinkler inspections. The Club still has a TCO (Temporary Certificate of Occupancy), and the cottages have not received any.
- The lighting issues with the monument sign near the first gate hopefully have finally been resolved
- The landscape project along the westbound side of Beachwalker Drive is complete. The unexpected discovery of existing irrigation on the eastbound side will allow landscaping.
- The current Public Safety Feasibility study conducted by CPSM (Center for Public Safety Management) is ongoing. Data collection is in progress, along with coordinating the meeting with stakeholders.
- For the upcoming holiday weekend, there will be an additional off-duty deputy to help with parking along Beachwalker Drive, along with Beach Patrol and evening code enforcement, who have the ability to issue tickets. With the Town having the ability to have vehicles towed, a towing company has been contracted. Parking issues at the Beach Club would be referred to KICA Security since it is not within the Town's jurisdiction.

Council Members engaged in an in-depth discussion on parking issues on Beachwalker Drive and the Beach Club, especially when a public safety concern arises. They emphasized the need for immediate action in cases blocking emergency access, including contracting a second towing company. They also discussed the potential use of booting as a deterrent.

Mayor Belt followed up on the Segment C project, mentioning a joint letter sent with Seabrook that was sent supporting the county staff's recommendation as a reasonable balancing of competing interests. However, there are indications of potential cutbacks, including reduced road expansion and possibly cutting back the bike path and pedestrian right of way. He noted that further county staff presentations on the comments and additional proposals are anticipated, although not yet scheduled.

VIII. Discussion:

A. Discussion of Town Support of Private Fundraising Activity

Mayor Belt stated that the discussion of the Town's support for private fundraising activities originated specifically from a request to use the Town's logo on a cover letter for a fundraising project related to loggerhead sea turtle research. He raised concerns about the appropriateness of using the Town's logo and being identified as a partner for a project over which the Town had no control. The Town had also recently received requests from a new foundation and the Lowcountry Land Trust and questioned how the Council felt about Town support of private initiatives and whether there should be any criteria established.

The Council debated the merits of showing support through the use of the Town's logo versus other forms of endorsement, with Council Member Heidingsfelder in favor of allowing the use of the Town's logo and supporting the request from the Conservancy and Turtle Patrol, emphasizing the importance of turtle research to the community. Ms. Termin, with the Conservancy, clarified that similar support had been given in the past, but the Turtle Patrol logo could be used on the letter along with the logos from the Seabrook Turtle Patrol, KICA, and the Conservancy. The discussion included input from Mr. McQuillin, who noted that there was no legal prohibition against using the logo but highlighted potential risks, including not being in the business of fundraising and the reputational risks if the funds were misused.

With no clear sense of Council, Mayor Belt stated that it was his view and recommendation not to use the town's logo, but otherwise demonstrated unwavering support for this type of research.

B. Discussion of Screening Requirements of Trash Receptacles for Non-Rental Properties

Council Member Heidingsfelder raised the issue of the differential treatment between short-term rental properties, which are required to screen their trash receptacles, and non-rental properties, which are not subject to the same requirement. Noted was that KICA, in its existing rules and regulations, asks property owners to shield their trash receptacles, but it is not enforced.

Council Members engaged in an in-depth discussion of the fairness and justification of this differential treatment and the potential for the Town to adopt an ordinance requiring all property owners to screen their trash receptacles. However, there were differing opinions on the materiality of the issue and the town's role in enforcing such regulations. The discussion highlighted the need for careful consideration of resource allocation for enforcement and the importance of not overreaching to take over responsibilities that other entities might handle better.

C. Discussion of East Beach Club Franchise Agreement with Kiawah Resort Associates (Kiawah Partners)

Mayor Belt recommended postponing a discussion regarding the East Beach Club franchise agreement with Kiawah Resort Associates until the next meeting. The delay is to address the need for a document aligning the Club's operations with multiple Town ordinances requiring permission for certain activities. Mayor Belt and Council Member Heidingsfelder have engaged in constructive talks with Mr. Nevin from the Club to resolve these issues, and this matter might not require a Council action item if an agreement that complies with the Town's ordinances can be reached.

IX. Old Business:

A. To Consider Approval of *Ordinance 2024-15 - An Ordinance to Amend Article 9 - Building and Building Codes, Chapter 1. - General, Division 2. – Construction Documents - *Second and Final Reading**

Mr. Spicher stated that during the plan review process, the ordinance would require the submission of additional documentation on structural calculations, some electrical load calculations for services over 600 amps, and isometric or one-line drawings showing branch lines as well as the supply lines for gas installations. The ordinance aims to improve the review process by addressing issues with "cookie-cutter" drawings and ensuring that plans are specific to each project.

Council Member Farrell made a motion to approve the second and final reading of Ordinance 2024-15. Mayor Pro Tem Berner seconded the motion.

Council Member Farrell expressed support for the ordinance, highlighting the importance of considering over- and under-engineering to avoid unnecessary costs to homeowners.

Following the discussion, the motion was unanimously approved.

B. To Consider Approval of Ordinance 2024-16 - An Ordinance to Amend Article 9 - Building and Building Codes, Chapter 2. – Administration, Division 6. - Violations, Section. 9-125. – Licensing Requirements – Second and Final Reading

Council Member Farrell made a motion to approve the second and final reading of Ordinance 2024-16. Mayor Pro Tem Berner seconded the motion.

In response to Council Member Heidingsfelder's question, Mr. Spicer stated that contractor registration is a means of identifying contractors on the island who have been properly vetted as having a business license. A decal is given to them to post on their vehicles to identify them as fully licensed contractors. The problem was a conflict in the verbiage, using licensing and not registration. Licensing is, by law, only provided by LLR at the state level.

Following the discussion, the motion was unanimously approved.

C. To Consider Approval of Ordinance 2024-19 - An Ordinance to Amend Article 15, Chapter 2 – Offenses Against Public Peace to Establish Guidelines for the Management and Disposal of Loose Materials and Debris - Second and Final Reading

Council Member Heidingsfelder made a motion to approve the second and final reading of Ordinance 2024-19. Mayor Pro Tem Berner seconded the motion.

Mayor Belt complemented the work done by the Council Members and the Town Attorney in providing an ordinance that was amended to clarify and focus on commercial activities.

In response to Ms. McIlvain's earlier comment, Ms. Tillerson stated that enforcement would be by Town employees. Once adopted, an employee will be stationed at the gate to pass out information about the new ordinance. Also discussed was the potential to use cameras to ensure compliance and the role of code enforcement officers in monitoring compliance, especially at night. Further discussion covered the implementation process of informing contractors about the new regulation, likely giving a 30-day notice before enforcement begins. Initially, violators will receive a warning, with subsequent violations leading to tickets.

Following the discussion, the motion was unanimously approved.

X. New Business:

A. To Consider Approval of Ordinance 2024-04 - An Ordinance to Amend the Town of Kiawah Island Municipal Code Article 2 – General Government and Administration, Chapter 2. – Municipal Council, Section 2-205. – Mayor Pro Tempore – First Reading

Mr. McQuillin clarified that the amendment aligns with state law by requiring the Council to elect a Mayor Pro Tem from its membership immediately after any general election for the municipal council. Additionally, the amendment provides flexibility by allowing the Council to appoint or reappoint a new Mayor Pro Tem after any election, not just general elections, for a term of not more than two years. This flexibility is meant to accommodate changes in council composition or special elections. There was some confusion regarding the amendment's wording. Specifically, the use of "general election" versus "any election," was clarified to include both general and special elections and also discussed was the procedure to follow if a Mayor Pro Tem resigns during their tenure.

Council Member Farrell made a motion to approve the first reading of Ordinance 2024-04. Mayor Pro Tem Berner seconded the motion, and it was unanimously approved.

B. To Consider Approval of Ordinance 2024-20 - An Ordinance to Amend Chapter 12 – Land Use Planning and Zoning, Article II. - Zoning, Division 5. - General Procedural Requirements, Establishing Section 12-169. - Stormwater Management Plan Review - Public Hearing and First Reading

Mr. Taylor presented slides to provide context on the comprehensive approach to stormwater management, highlighting its origins from the Comprehensive Marsh Management plan, which recommended limiting impermeable surfaces and formalizing best management practices for stormwater on private properties. His discussion emphasized the unique situation of Kiawah, where the Town does not maintain any of the stormwater management systems; rather, they are managed by the Community Association. The proposed regulatory changes aim to reduce impervious surfaces, promote low-impact development, and improve water quality and quantity management.

Mr. Taylor outlined a phased approach to implementing these changes, starting with setting a foundation for managing and monitoring stormwater, followed by developing specific standards and best management practices.

Mayor Belt stated that this is basically procedural; it provides the enabling authority for the Planning Director to start incorporating a broader set of considerations, inputs, data, and information related to stormwater management as part of the site plan review process than is the case under our current code.

Council Member Heidingsfelder expressed his support for the ordinance's approval on the first reading, providing examples of locations around the island where renovation projects have elevated properties by at least a foot or more, and water will flow into the street or neighboring properties.

Council Member Heidingsfelder made a motion to open the Public Hearing for Ordinance 2024-20. Mayor Pro Tem Berner seconded the motion, and it was unanimously approved.

Roger Warren – President, Kiawah Island Golf Resort

Mr. Warren raised concerns about the feasibility of managing stormwater on individual properties due to the high-water table on the island and whether a study had been done to determine whether certain properties have the ability to maintain water and hold it long enough for it to flow through and percolate through the ground.

Mark Permar – Kiawah Partners

Mr. Permar supported an update of the master drainage system and a more comprehensive approach, as represented in Mr. Taylor's presentation. He provided comments on elements he felt should be considered during the development process.

Maura McIlvain – 146 Blue Heron Pond Road

Ms. McIlvain stated that Mr. Taylor indicated that with big projects or complicated projects, an independent person would likely be used and questioned if the homeowner pays if the stormwater system or the stormwater planning is related to their property or renovation. She also pointed out complexities that may develop with large projects, which may end up needing a retention pond or some basin on that property not required on previous projects.

Mr. Taylor responded to the comments made.

Council Member Heidingsfelder made a motion to close the Public Hearing for ordinance 2024-20. Council Member Farrell seconded the motion, and it was unanimously approved.

Council Member Heidingsfelder made a motion to approve the first reading of Ordinance 2024-20 - An Ordinance to Amend Chapter 12 – Land Use Planning and Zoning, Article II. - Zoning, Division 5. - General Procedural Requirements, Establishing Section 12-169. - Stormwater Management Plan Review. Mayor Pro Tem Berner seconded the motion.

Council Members discussed that the ordinance applies to all properties, including single-family homes, townhouses, and commercial and multifamily developments. It will take effect after its adoption date and affect new construction, significant changes in building footprints, parking areas, or use changes greater than 500 square feet. Also discussed was the move towards more permeable surfaces to manage stormwater effectively.

Council Members raised concerns about the ordinance's impact on neighboring properties, especially regarding water runoff and potential adverse effects. They debated whether to require property owners to consider the impact on adjacent properties in their stormwater management plans. With members having varying opinions, a workshop was proposed to address their concerns. The suggestion was made to separate the ordinance into different sections for single-family and larger commercial developments, similar to the approach taken with the tree ordinance. However, it was noted that the current focus was on single-family homes due to their significant impact. The council decided to proceed with the ordinance but emphasized the need for further education on stormwater management and asking the right questions before the second reading. The suggestion was made to also hear from KICA, Stantec, and Waston & Sampson, as these are big issues for the island.

Following the discussion, the motion was unanimously approved.

C. To Consider Approval of Ordinance 2024-22 - An Ordinance to Amend Article 4, Finance and Taxation, Chapter 3, Municipal Business Licenses, Section 4-321. – Classification And Rates, Appendix A: Business License Rate Schedule – First Reading

Council Member Heidingsfelder stated that the ordinance aims to adjust the language in the business license fee structure to align with current practices. Specifically, the ordinance will change to define non-resident businesses having no fixed principal place of business from “within the Municipality and outside of it” to “within Charleston County and those outside of it.” There would be no impact on revenues, and the Ways and Means Committee unanimously approved this recommendation.

Mr. McQuillin discussed the legal implications of this change, given that it deviates from the model ordinance language previously approved by the South Carolina Supreme Court.

Council Member Farrell made a motion to approve the first reading of Ordinance 2024-22. Mayor Pro Tem Berner seconded the motion, and it was unanimously approved.

D. To Consider Approval of the CVB (Charleston Area Convention and Visitors’ Bureau) Fiscal Year 2025 Budget

Ms. Subert stated that the SATAX Committee met for the second time to review the CVB FY 2025 budget. The CVB provided a great presentation at the meeting, after which the SATAX Committee voted to recommend approval.

Council Member Heidingsfelder made a motion to approve the CVB Fiscal Year 2025 Budget. Council Member Farrell seconded the motion.

Council Member Heidingsfelder stated that he would vote to approve the CVB budget but disagreed with the automatic assignment of 30% of the Accommodation Tax revenue to the CVB, noting that SATAX Committee members had raised questions about how some of those funds are spent. He

recommended that the Town create a structure that would provide an alternative to CVB and allow the SATAX Committee to decide on allocating a portion of funds, aiming to foster competition and possibly improve services.

During the discussion, Ms. Tillerson indicated that this recommendation had been made with several options being investigated, and she could provide the Council Members with the results of the investigations.

Following the discussion, the motion was unanimously approved.

E. To Consider Approval of the Amendment to the Contract with Tetra Tech, Inc. for Disaster Debris Monitoring Services

Council Member Farrell made a motion to approve the amendment to the contract with Tetra Tech, Inc. for Disaster Debris Monitoring Services. Council Member Heidingsfelder seconded the motion.

Mayor Belt stated that concerns were raised about the specific terms of these contracts, including liability limits and the governing law, leading to a decision to postpone the approval.

Mr. Gottshalk stated that after the language discrepancies were noted, the legal teams for the Town and Tetra Tech reviewed the language, and he was notified that Tetra Tech had agreed to revise the language in the contract to be consistent with the recommendations from the Council.

Council Members discussed the contract revisions, ensuring they reflected all of the Council's requested changes.

Council Member Heidingsfelder amended his motion to approve the contract amendment subject to any final changes that may be necessary to resolve between the respective counsels. The motion was seconded.

Following further discussion, the motion was unanimously approved,

F. To Consider Approval of the Proposal for HVAC Maintenance Services

Council Member Heidingsfelder made a motion to approve the contract for HVAC Maintenance Services.

With no second to the motion, Council Members discussed that similar to the Tetra Tech contract, revisions would be made to the language to conform to the Town's standards, particularly with regard to dispute resolution and indemnification.

Following the in-depth discussion, Mayor Belt made the motion to approve the terms of the proposal amount and scope of services contingent upon his approval of the contract's form. Mayor Pro Tem seconded the motion, which was unanimously approved.

G. To Consider Approval of the Environmental Committee Appointments

Council Member Heidingsfelder made a motion to approve the appointment of Mr. Cindy Perry and Ms. Lynda Leffler to the Environmental Committee. Council Member Farrell seconded the motion, and it was unanimously approved.

XI. Executive Session:

- A. Executive Session Pursuant to South Carolina Code Section 30-4-70(a)(2) to Discuss Section 16(f) of the ARDA (2013 Amended and Restated Development Agreement) and Captain Sam's Spit.**

Council Member Heidingsfelder made a motion to move into Executive Session Pursuant to South Carolina Code Section 30-4-70(a)(2) to Discuss Section 16(f) of the ARDA (2013 Amended and Restated Development Agreement) and Captain Sam's Spit. Council Member Farrell seconded the motion, and it was unanimously approved.

Mayor Pro Tem Berner made a motion to return to the Regular Session. Council Member Farrell seconded the motion, and it was unanimously approved.

Mayor Belt stated that the purpose of the Executive Session was to receive legal advice with regard to pending litigation involving Captain Sam Spit. The legal advice was received, but no decisions were made, and no actions were taken.

XII. Citizens' Comments:

None

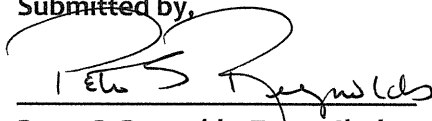
XIII. Council Member Comments:

None

XIV. Adjournment:

Mayor Pro Tem Berner made a motion to adjourn the meeting at 5:19 pm. Council Member Farrell seconded the motion, and it was unanimously approved.

Submitted by,



Petra S. Reynolds, Town Clerk

9.11.2024

Date