



## **Town of Southern Shores**

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

[www.southernshores-nc.gov](http://www.southernshores-nc.gov)

Council Meeting

October 16, 2012

9:00 a.m.-Pitts Center

Mayor Denny called the meeting to order at 9:00 a.m. in the Pitts Center with the following Council Members present: Mayor Hal Denny, Mayor pro tem Jodi Hess, Council Members George Kowalski, David Sanders and Larry Lawhon. Also present: Town Manager Peter Rascoe and Town Clerk Carrie Gordin.

Mayor Denny led the Pledge of Allegiance and held a Moment of Silence.

### **APPROVAL OF AGENDA**

Mayor pro tem Hess moved to approve the agenda as presented. Council Member Sanders seconded which passed unanimously.

### **RECOGNIZING TOWN EMPLOYEE YEARS OF SERVICE**

Mayor Denny recognized Harold Herndon and David Foster of the Public Works Department for their five years of service to the Town by presenting them with a plaque, a certificate of appreciation and a five-year Town pin.

### **PRESENTATIONS**

#### **Waste Management-Town's New Recycle Service Provider**

Rob Clendein, District Manager, addressed Council on the services provided and gave an update on their initial pickups.

#### **Town FY 2011-2012 Audit Report-Teresa Osborne, Dowdy & Osborne, CPA's**

Mrs. Osborne presented the FY2011-2012 Town Audit. She stated the audit reflects that the Town is in excellent financial shape.

Mayor Denny thanked Mrs. Osborne for the report. He commended the Town Manager and the department heads on their diligence in keeping the Town's expenses below budget.

[Clerk's Note: A file copy of the FY2011-2012 Audit can be found at Town Hall and on the Town's website].

**CONSENT AGENDA**

**Resolution 2012-10-04 Approval of Updated Municipal Records Retention and Disposition Schedule NC Department of Cultural Resources**

Mayor pro tem Hess moved to approve the consent agenda as presented. Council Member Kowalski seconded which passed unanimously.

[Clerk's Note: A copy of Resolution 2012-10-04 is hereby attached as Exhibit A].

**APPROVAL OF MINUTES**-October 2, 2012

Mayor pro tem Hess moved to approve minutes as presented. Council Member Sanders seconded which passed unanimously.

**GENERAL PUBLIC COMMENT**-None

**OLD BUSINESS**

**Update on Dare County's Comprehensive Transportation Plan- Steve Lambert, Transportation Coordinator for the Albemarle Commission**

Mr. Lambert-provided Council with additional information on his request to use adjusted traffic figures for long range planning.

Following Council discussion, Mayor Denny moved that Council has no objection to the use of the CTP numbers shown on sheet 1, as presented by Mr. Lambert. Council Member Sanders seconded which passed unanimously.

[Clerk's Note: A copy of the Dare County CTP Sheet 1 dated October 9, 2012 is hereby attached as Exhibit B].

**Amendment to Town Code-Chapter 10, Cemeteries**

The Town Manager stated upon review of the Town's cemetery ordinance and rules by Council Member Kowalski and staff, staff is recommending changes that would reflect more clear rules for cemetery use.

Council Member Kowalski moved to adopt the cemetery ordinance amending Chapter 10 of the Town Code as presented to Council on October 16. Mayor pro tem Hess seconded which passed unanimously.

[Clerk's Note: A copy of the amendment to Town Code Chapter 10-Cemeteries is hereby attached as Exhibit C].

## NEW BUSINESS

### Town Manager's Recommendation on Seeking General Engineering Services

The Town Manager provided information to Council on seeking general engineering services. He submitted resolution 2012-10-05 for Council's consideration as well as requesting Council consider authorizing a request for proposals for engineering services. He stated currently the engineering services are provided by Quible Engineering but several current projects would be exempt from their service as shown in the resolution which is authorized by North Carolina General Statutes.

Mayor Denny moved to adopt Resolution 2012-10-05 as presented. Council Member Sanders seconded which passed unanimously.

Mayor pro tem Hess moved to authorize the Town Manager to issue an RFP for engineering services. Council Member Kowalski seconded which passed unanimously.

[Clerk's Note: A copy of Resolution 2012-10-05 is hereby attached as Exhibit D].

### Submit Nominees to the Outer Banks Tourism Board

Mayor Denny stated Mayor pro tem Hess' term on the Outer Banks Tourism Board expires in December. The County Board of Commissioner's is requesting three names be submitted by the municipality for consideration with one of the nominees being selected as the Town's representative. Council Members Hess, Kowalski and Sanders volunteered to submit their names for consideration.

## OTHER ITEMS

### Town Manager

The Town Manager reported on several issues:

- He reminded Council that emails and digital formats i.e. Facebook are public record. He stated the policy on the Town's Facebook page is that the Town will not respond to comments made on Facebook.
- Veteran's Day-November 11 the Knights of Columbus will hold a ceremony at 1:00 p.m. at Town Hall.
- Chicahawk Trail Road Improvement project is in the final stages of completion and this year's current street improvement project is on-going.
- Certain materials are on order for the enhancement of the Town's welcome sign.

The Town Manager stated Council directed staff to investigate the videotaping of the Council meetings He presented a proposal from NOMIS Productions for Council's consideration.

Mayor Denny moved that Council authorize the Town Manager to execute the agreement with NOMIS Productions as presented on October 16. Council Member Kowalski seconded which passed unanimously.

Mayor Denny moved to approve Budget Amendment #2 as presented. Council Member Sanders seconded which passed unanimously.

[Clerk's Note: A copy of Budget Amendment #2 is hereby attached as Exhibit E].

Mayor-None

Council

Council Member Kowalski stated he would like clarification on the Outer Banks Community Foundation cemetery perpetual care fund as it is referred to in the Audit. The Town Manager will provide Council with information at the November workshop meeting.

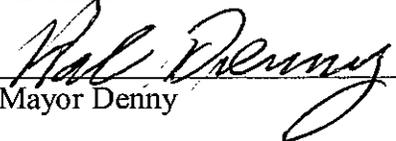
Council Member Kowalski stated there was previous discussion regarding landscaping to be done around the cemetery sign and he asked what the status of that project is. The Town Manager will report back to Council.

Mayor pro tem Hess reminded everyone that the Outer Banks Seafood Festival will be held on Saturday.

Mayor pro tem Hess moved to go into closed session pursuant to NCGS 143-318.11(a)(1) to review/approve closed session minutes.

Upon returning to open session and hearing no other business Mayor Denny moved to adjourn the meeting at 10:50 a.m. Council Member Lawhon seconded which passed unanimously.

ATTEST:

  
Mayor Denny

Respectfully submitted:

\_\_\_\_\_  
Carrie Gordin

Exhibit A

Resolution 2012-10-04

**RESOLUTION ADOPTING THE MUNICIPAL RECORDS RETENTION AND  
DISPOSITION SCHEDULE**

**BE IT RESOLVED** by the Town of Southern Shores Town Council that the 2012 Updated North Carolina Municipal Records Retention and Disposition Schedule be adopted as presented by the North Carolina Department of Cultural Resources in accordance with the provision of Chapters 121 and 132 of the General Statutes of North Carolina, dated September 10, 2012, a copy of which is on file in the office of the Town Clerk.

**BE IT FURTHER RESOLVED** this schedule is to remain in effect from the date of approval until it is reviewed and updated.

Approved this 16<sup>th</sup> day of October 2012.

\_\_\_\_\_  
Hal Denny, Mayor

ATTEST:

\_\_\_\_\_  
Carrie Gordin, Town Clerk

Exhibit B

Date: October 9, 2012

To: Peter Rascoe, Manager, Town of Southern Shores  
Hal Denny, Mayor, Town of Southern Shores  
Jodi Hess, Mayor Pro Tempore, Town of Southern Shores  
George Kowalski, Council Member, Town of Southern Shores  
David Sanders, Council Member, Town of Southern Shores  
Larry Lawhon, Council Member, Town of Southern Shores  
Wes Haskett, Town Planner, Town of Southern Shores

From: Steven A. Lambert, Albemarle RPO Coordinator

RE: NCDOT Transportation Planning Branch Comprehensive Transportation Plan Socio-economic Data Forecasting Methodology Update

On October 2, 2012, Steven A. Lambert met in front of the Town of Southern Shores Town Council to give the town an update on the Dare County Comprehensive Transportation Plan and ask for official approval of the projected data used to determine future deficiencies. The town council has asked to provide more background and data before approval.

Typically travel demand is based on trend line analysis using Average Annual Daily Traffic (AADT) History. The Dare County CTP Committee worked with NCDOT and opted to instead look at traffic counts that are based on AADT History, but then converted into traffic counts which represent the "average weekday in June". The forecasting methodology also uses transportation data including Right-of-way, speed limit, and existing capacity. It also uses population growth, economic development potential and land use trends to determine the potential impacts on the future transportation system in 2040.

I have narrowed down the spreadsheets to be limited to roads specifically in Southern Shores for discussion purposes. As you can see in "Spreadsheet 1" entitled Dare County CTP – Seasonal Counts and AADT Count, the month by month comparison and AADT count vary greatly due to the seasonal traffic. July's counts are the peak for each facility and estimated drop both before and after. After the Dare County CTP Committee discussed extensively, they decided to use June counts as the basis for the projected data. For a broader glance of the Seasonal counts compared to AADT compares, please review Spreadsheets 2 and 3. I am here today to ask for your official approval of the projected data used to determine future deficiencies. Your approval can be documented as part of the official minutes of the meeting.

Facility	Section (From - To)	Jurisdiction	Dist.	Existing Capacity	2012	2040	2012	2040	V/C	V/C	March	April	May	June	July	August	September
											Estimated 2012						
NC 12	NC 12 (N Virginia Trail Rd) to E Dogwood Trail	Southern Shores	2.2	12000	10100	13300	0.80	1.06			7372	8352	10978	12169	13649	12024	10000
NC 12	E Dogwood Trail to Sea Oats Trail	Southern Shores	1.7	12000	10100	13300	0.80	1.06			7372	8352	10978	12169	13649	12024	10000
S Dogwood Rd	US 158 to E Dogwood Trail	Southern Shores	2.5	10000	2000	2900	0.20	0.29			1934	2034	2100	2100	2100	2100	2056
E Dogwood Rd	S Dogwood Rd to Bayberry Trail	Southern Shores	0.5	10000	1400	1800	0.14	0.18			1381	1453	1500	1500	1500	1500	1468
E Dogwood Rd	Bayberry Trail to NC 12 (Duck Rd)	Southern Shores	0.4	10000	1400	1800	0.14	0.18			1381	1453	1500	1500	1500	1500	1468
E Dogwood Rd	NC 12 (Duck Rd) to Ocean Blvd	Southern Shores	0.2	10000	1400	1800	0.14	0.18			1381	1453	1500	1500	1500	1500	1468

**Exhibit C**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA**

**ARTICLE I. Purpose(s) and Authority.**

**WHEREAS**, pursuant to North Carolina General Statute § 160A-174 the Town may also enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

**WHEREAS**, the Town finds that the Town of Southern Shores has authority to establish, operate, and maintain cemeteries pursuant to North Carolina General Statute 160A-341; and

**WHEREAS**, the Town further finds that Town of Southern Shores has authority to adopt by ordinance rules and regulations concerning all matters of the use, operation, and maintenance of town cemeteries, and may impose a schedule of prices for lots; and

**WHEREAS**, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Cemeteries Ordinance and Town Code of Ordinances as stated below.

## **ARTICLE II. Construction.**

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipses (“...”) shall remain as they currently exist within the Town Code.

## **ARTICLE III. Amendment of Cemeteries Ordinance.**

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

**PART I.** That Section 10-1. [Definitions] be amended as follows:

### **Sec. 10-1. Definitions.**

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Immediate family* means spouse, brother, sister, parent, child or grandchild or the spouse of any of those.~~

~~(Code 1988, § 3-8; Ord. of 9-6-1994, pt. I)~~

**PART II.** That Section 10-2. [Municipal cemetery established; cemetery fund; supervision of operations] be amended as follows:

**Sec. 10-21. Municipal cemetery established; cemetery fund; supervision monitoring of operations.**

(a) The town shall establish, operate and maintain a municipal cemetery on that parcel of land, the gift of the Southern Shores Civic Association, bounded on the north by Kitty Hawk Land Company Lot No. 8, Block 202, on the west by Dogwood Trail and on the south and east by the property of the Outer Banks Recreation Association.

(b) The cemetery shall be known as the Southern Shores Cemetery.

(c) The cemetery development, operation and maintenance costs shall be paid for

from revenues derived from the sale of lots in the cemetery. A cemetery fund shall be established in the town budget to account for revenues and expenditures.

(d) The mayor, with the approval of the town council, shall may appoint a councilmember to supervise monitor cemetery operations in a manner consistent with this chapter and policies established by the town council and make recommendations to the Council as appropriate.

(e) The council may establish further regulations regarding the management or maintenance of the cemetery.

(Code 1988, § 3-1; Ord. No. 81-0021, § 1, 1-6-1981)

**PART III.** That Section 10-3. [Additional Regulations] be amended as follows:

**~~Sec. 10-3. Additional regulations.~~**

~~The council may establish further regulations regarding the management or maintenance of the cemetery.~~

~~(Code 1988, § 3-2; Ord. No. 81-0021, § 7, 1-6-1981)~~

**PART IV.** That Section 10-4. [Cemetery lot sales] be amended as follows:

**~~Sec. 10-4. Cemetery lot sales.~~**

(a) ~~*Fee.* The council shall establish a cash fee for each cemetery lot sold to a resident, property owner or person maintaining a legal residence within the corporate boundaries of the town, and a cash fee for nonresidents. Lot size shall be four feet by ten feet.~~

(b) ~~*Conveyance by certificate; recording.* Conveyance of cemetery lots shall be by certificate, the text of which shall be as established by the council. Each certificate shall be recorded in a book kept for this purpose by the town clerk.~~

~~(Code 1988, § 3-3; Ord. No. 81-0021, § 2, 1-6-1981; Ord. No. 81-0027, 8-4-1981)~~

**PART V.** That Section 10-5. [Prohibited conduct] be amended as follows:

**~~Sec. 10-5. Prohibited conduct.~~**

~~The following actions or behavior shall not be permitted in or on the grounds of the cemetery:~~

- ~~(1) Loud, boisterous or obscene language or whistling and singing, except when part of a memorial or interment service.~~
- ~~(2) Unlawful conduct or unseemly noise.~~
- ~~(3) Picnicking, lunching, camping, hunting, playing, loitering, lounging or any other~~

recreational activity.

- (4) ~~Cutting, picking or pulling flowers or plants, whether cultivated or wild; breaking branches from any shrub or tree; scratching, marring, defacing, injuring or disturbing any marker, building or any other thing being a part of or placed or used in connection with the cemetery grounds; or any grave, pathway, or roadway therein.~~
- (5) ~~Putting or depositing paper, rubbish, dead or wilted flowers, shrubs, plants, branches or any unsightly or unseemly thing on any grave, walk, drive or other part of the cemetery, except in receptacles provided for that purpose.~~
- (6) ~~Peddling, begging, soliciting or collecting.~~
- (7) ~~The display or distribution of signs, cards, handbills, circulars or anything relating to any business, profession, office or other matters.~~
- (8) ~~No child or adult shall play on cemetery property.~~
- (9) ~~The placing of flowers, floral or other designs and things in alcohol or other preservatives, or under glass, or other enclosures.~~
- (10) ~~Fishing, hunting, trapping, molesting or killing of any birds, waterfowl or game of any kind.~~

~~(Code 1988, § 3-6; Ord. No. 81-0021, § 5, 1-6-1981)~~

**PART VI.** That Section 10-6. [Motor vehicles] be amended as follows:

**Sec. 10-6. Motor vehicles.**

~~The following actions shall be prohibited in the cemetery:~~

- (1) ~~Driving any motor car or vehicle across or upon any grave or lot, or parking or leaving the same therein.~~
- (2) ~~Parking or leaving any motor car or any vehicle in any driveway within the cemetery grounds, at such location or in such position, as to prevent any other car or vehicle from passing the same, and if so parked or left, the vehicle will be removed, without notice and at the expense of the owner.~~
- (3) ~~Leaving a motor car or vehicle parked on the grounds of the cemetery between the hours of 8:00 p.m. and 8:00 a.m., or at any other time when not visiting the cemetery or at the cemetery for authorized business.~~

~~(Code 1988, § 3-7; Ord. No. 81-0021, § 6, 1-6-1981)~~

**PART VII.** That any rules or regulations previously adopted by the Town Council for the operation and maintenance of the Southern Shores Cemetery are hereby repealed, and in their place the following rules are adopted as a part of this Ordinance:

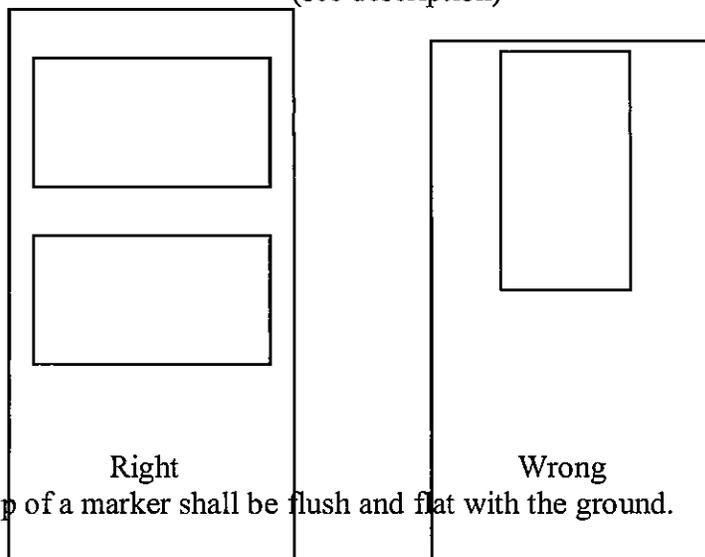
1. A Certificate of Burial Rights shall be issued for the right to use, for burial purposes and in exchange for payment, lot or lots in Southern Shores Cemetery and is issued subject to the rules, regulations and ordinances governing the cemetery adopted by the Town Council. The right conveyed by a certificate is for a period of 20 years from the date of execution of the certificate by the Town and thereupon shall expire. Once a lot is used for a family member, however, the entitlement to use one other lot owned by that family vests in perpetuity to the family without renewal requirements. Any remaining lots may be retained by the family as long as renewal requirements are met. The right to use the above described cemetery lot as burial place is vested to the grantee and any member of his/her immediate family which is defined as spouse, brother, sister, parent, child or grandchild or the spouse of any of those and shall not be assigned to any other person.
2. Should no immediate family burial occur within 20 years from the date of the certificate expiration, then, upon tender of a renewal fee of \$10.00 within five (5) years following the expiration date of the original certificate, the certificate may be renewed for a period of 10 years from the expiration date of the original certificate. It is the responsibility of the grantee or his family, to advise the town of any change of address and renew the certificate. Automatic cancellation of burial rights will occur if the certificate is not duly renewed within five (5) years following the expiration date of the original certificate. No more than four (4) lots may be owned by any one family, unless Town Council determines otherwise, based on number of children, grandparents, spouses. Upon request of the certificate holder, and Upon approval of the Town Council, the Town may purchase lots back at the original purchase price. Current purchase price is \$500.00 for Town property owners, \$2,000 for non-property owners.
3. Lots containing trees shall only be used for burial of cremains.
4. The Town Clerk shall be notified, in writing, by a deceased's representative of any interment or dis-interment in or from a cemetery lot prior to such action.
5. The Town reserves the right to determine, establish, modify, alter or change the grade of any vacant lot, road, driveway, pathway or part thereof, and it shall not be liable to anyone for any such action.
6. No lot owner shall make any changes or alterations in or on any lot, including the removal or change in position of any memorial or marker, removal of trees or shrubs without the written consent of the Town Manager.
  - a) No coping, curbing, fencing, hedging, borders, perennial plantings, shrubs, corner posts, or enclosure of any kind will be allowed around a gravesite. No

walks of brick, cinders, tile, stone, sand, cement, gravel or wood or other materials will be allowed on any cemetery lot.

- b) No trinkets, toys, shells, glass jars, tin cans, sand, flagpoles, lights or any article determined to be unsightly by the Town Manager shall be allowed on a grave. Any such articles may be removed without notice and the Town will not be responsible for the loss or destruction of the same.
- 7. Besides being subject to these rules and regulations, all interments, dis-interments and removals are made subject to the orders and laws of the properly constituted authorities of the County and State.
- 8. Grave markers shall not be in excess of 12 by 24 inches in size and shall be made of permanent material.
- 9. Adjoining family graves may share a common marker whose size shall not exceed 12 by 48-inches and shall be made of permanent material.
- 10. Markers shall be located at the head of the grave, center measured one-foot from each side, readable west to east with long dimension of the marker to be on a North/South axis only. Additional 12 by 24-inch markers, shall be placed parallel to the 24-inch dimension of the head marker; (See diagram)

PERMITTED MARKER PLACEMENT:

(see description)



- 11. The top of a marker shall be flush and flat with the ground.
- 12. Grave markers with porcelain or photographs are not permitted.
- 13. No loitering shall be allowed in the cemetery.

**ARTICLE IV. Severability.**

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

**ARTICLE V. Effective Date.**

This ordinance amendment shall be in full force and effect from and after the 16<sup>th</sup> day of October, 2012.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: October 16, 2012

Motion to adopt by Councilmember Kowalski

Motion seconded by Councilmember Hess

Vote: \_\_AYES \_\_NAYS

Exhibit D

Resolution 2012-10-05

Resolution Exempting Particular Projects from  
Article 3D of Chapter 143 of the North Carolina General Statutes

Whereas North Carolina General Statute (NCGS) §143-64.31 requires a process for a unit of local government to select a firm performing architectural, engineering, surveying, and construction management at risk services; and

Whereas, pursuant to NCGS §143-64.32, a unit of local government may, in writing, exempt certain projects from the formal selection requirements of NCGS §143-64.31 if a proposed project has an estimated professional fee in an amount less than thirty thousand dollars (\$30,000), or for any particular project in the discretion of the unit of local government as long as it states the reasons therefore and the circumstances attendant thereto; and

Whereas the Town of Southern Shores desires, for the purpose of more efficient administration, to exempt certain current ongoing projects from any immediate future formal selection process for general engineering services due to the reason that these current ongoing projects already have established firms providing project-specific engineering services.

Now Therefore, the Town Council of the Town of Southern Shores does hereby exempt from any immediate future formal selection process of NCGS §143-64.31 projects qualifying for such an exemption pursuant to NCGS §143-64.32, specifically:

- (1) Work associated with the 2008 5-year Capital Improvement Plan for streets,
- (2) Phase II Canal Maintenance Dredging Project,
- (3) Tall Pine Bridge Replacement Project, and
- (4) Juniper/Trinitie Trails Bridge Replacement Project.

Adopted this the 16<sup>th</sup> day of October, 2012.

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
Town Clerk

Exhibit E

**Town of Southern Shores  
Budget Amendment Number # 2**

**Administration  
Increases**

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>

**Administration  
Decreases**

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>

	-			
	<b>Revenues</b>			
40-39909	Undesignated FB	\$11,000		
	<b>Expenditures</b>			
42-50152	Recording of Meetings	\$11,000		
				\$
	<b>TOTAL</b>		<b>TOTAL</b>	-

Explanation: The cost of recording 2 Council meetings per month

Recommended By:

J. Peter Rascoe, III, Town Manager

Approved By: Town Council

Hal Denny, Mayor

Date