

# TOWN OF OHATCHEE

P.O. Box 645

Ohatchee, Alabama 36271

256-892-3233

*"Biggest Little Town in the U.S.A."*

Steven E. Baswell

*Mayor*

Celesia S. Jennings

*Council Member Place No. 1*

J.M. "Butch" Mitchell

*Council Member Place No. 2*

Anthony Crosson

*Council Member Place No. 3*

Teresa G. Lott

*Council Member Place No. 4*

Perry R. Howard

*Council Member Place No. 5*

## AGENDA

### OHATCHEE TOWN COUNCIL

JUNE 13, 2023

Approve the Work Session and Minutes of May 9, 2023 meeting;

Approve Resolution R-23-06-01, a Resolution approving to move monies into CD's;

Approve Ordinance No. 23-06-01, an Ordinance Regulating Telecommunication Towers and Antennas in the Town of Ohatchee;

Other Business:

Angler Rail Services/ Ohatchee Facility information inside Council Packets

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## OHATCHEE TOWN COUNCIL

### WORK SESSION

JUNE 13, 2023

Ohatchee Town Council met on Tuesday June 13, 2023 at 5:30 PM at the Municipal Complex for a Pre-Council Work Session. Members present were Mayor Baswell, Council Members Celesia Jennings, Anthony Crosson, Butch Mitchell, and Perry Howard. Others Present were Chief Kelly and Raymone Underwood and Reverend Sam Fordham.

Mayor Baswell declared a Quorum present and called the Work Session to order at 5:30 PM.

Mayor Baswell asked the Council to approve the Work Session and Minutes of May 9, 2023 meeting;

Mayor Baswell asked the Council to approve Resolution R-23-06-01, a Resolution approving to move monies into CD's;

Mayor Baswell asked the Council to approve Ordinance No. 23-06-01, an Ordinance Regulating Telecommunication Towers and Antennas in the Town of Ohatchee;

Other Business:

Angler Rail Services/ Ohatchee Facility information inside Council Packets

With no further business to discuss Work Session Adjourned at 5:49 PM.

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## OHATCHEE TOWN COUNCIL

Council Meeting

JUNE 13, 2023

Ohatchee Town Council met on Tuesday June 13, 2023 at 5:49 PM at the Municipal Complex for a Council Meeting. Members present were Mayor Baswell, Council Members Celesia Jennings, Anthony Crosson, Butch Mitchell, and Perry Howard. Others Present were Chief Kelly and Raymone Underwood and Reverend Sam Fordham.

Mayor Baswell declared a Quorum present and called the Council Meeting to order at 5:49 PM.

Mayor Baswell asked the Council to approve the Work Session and Minutes of May 9, 2023 meeting. Council Member Celesia Jennings made a motion to approve as written. Council Member Butch Mitchell seconded the motion. All voted Aye. Motion Passed.

Mayor Baswell asked the Council to approve Resolution R-23-06-01, a Resolution approving the Mayor and Town Clerk to move monies from the General Fund into Certificate of Deposits with Investar Bank. Council Member Celesia Jennings made a motion to approve. Council Member Anthony Crosson seconded the motion. All voted Aye. Motion Passed.

Mayor Baswell asked the Council to approve Ordinance No. 23-06-01, an Ordinance Regulating Telecommunication Towers and Antennas in the Town of Ohatchee. Mayor Baswell asked for a motion to suspend the Rules of Order. Council Member Celesia Jennings made a motion to suspend the Rules of Order. Council Member Butch Mitchell seconded the motion. Mayor Baswell asked for a Roll Call Vote. Council Member Celesia Jennings voted Aye. Council Member Anthony Crosson voted Aye. Council Member Butch Mitchell voted Aye. Council Member Perry Howard voted Aye. Motion Passed. Mayor Baswell called for a Roll Call vote to approve Ordinance No. 23-06-01. Council Member Celesia Jennings voted Aye. Council Member Anthony Crosson voted Aye. Council Member Butch Mitchell voted Aye. Council Member Perry Howard voted Aye. All voted Aye. Motion Passed.

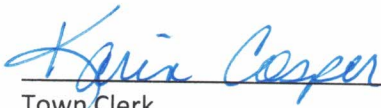
### Other Business:

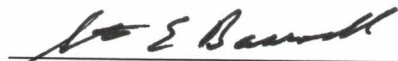
Angler Rail Services/ Ohatchee Facility information inside Council Packets, gives information on the new Railway Service that is planning to begin in the Town of Ohatchee in the up-coming months of 2023.

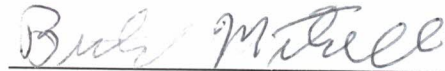
Council Member Butch Mitchell asked when the Pay-Scale Committee will begin working on the Police Department Pay-Scale. Council Member Celesia Jennings stated as soon as Mayor Baswell gives the okay to begin.

With no further business to discuss Mayor Baswell asked for a motion to unsuspend the Rules of Order and adjourn. Council Member Celesia made a motion to unsuspend the Rules of Order and adjourn. Council Member Anthony Crosson seconded the motion.

Council Meeting Adjourned at 5:52 PM

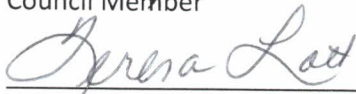
  
Town Clerk

  
Mayor

  
Council Member

  
Council Member

  
Council Member

  
Council Member

\_\_\_\_\_  
Council Member



## THE TOWN OF OHATCHEE, ALABAMA

### TELECOMMUNICATION TOWERS AND ANTENNAS

#### ORDINANCE: AN ORDINANCE ADOPTED BY THE TOWN OF OHATCHEE REGULATING TELECOMMUNICATION TOWERS AND ANTENNAS

ORDINANCE NO. 23-06-01

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF OHATCHEE, ALABAMA, AS FOLLOWS:

1.1 *Purpose of Regulations.* The public has a legitimate interest and concern in the placement and appearance of telecommunication towers, antennas, and satellite dishes under the Telecommunications Act of 1996, where such control does not conflict with or unreasonably constrain the legitimate right of businesses to exercise free trade. Ohatchee desires access to advanced technology to serve its businesses and citizens, but not at the expense of the community's overall appearance and public image. Ohatchee seeks to impose sensible controls on telecommunication facilities, in order to maintain the aesthetic character and charm of the community and its neighborhoods against the insensitive and uncontrolled proliferation and placement of wireless facilities.

1.2 *Definitions.* The following sign terms, when used in this Ordinance, shall have the meanings defined by this section.

A. **Antenna.** An electromagnetic device which conducts radio signals, through an attached cable or wave guide, to or from a radio transmitter or receiver. "Antenna" includes devices commonly known as "whips," "panels," and "parabolic dishes." "Antenna" shall include an antenna used in conjunction with microwave, cellular, or personal communication service systems and any other type of telecommunications systems now or hereafter in use.

B. **Applicant.** A party or parties who apply for a permit to construct a tower, to install an antenna on a proposed or existing tower, or to locate equipment on a proposed or existing tower compound.

C. **Co-Location Site.** A parcel of land or other site on which the antennas and related equipment of more than one party are located.

D. **Communication Facilities.** Towers, antennas, and associated equipment collectively.

E. **Equipment.** All equipment and facilities used in conjunction with one (1) or more towers and/or antennas, including, but not limited to, electronic systems, generators, fuel tanks, and fuel.

F. **FAA.** The U.S. Federal Aviation Administration.

G. **FCC.** The U.S. Federal Communications Commission.

H. **Fiber-Optics.** Light transmissions through very fine flexible glass, by internal reflection.

I. **Monopole.** Any self-supporting wooden pole, metal, or concrete pole designed to support an antenna; provided, that the word "monopole" shall not include a latticed steel or metal tower, a tower which requires guy wires for support, or a tower which has more than one (1) source of support, such as a tower with more than one (1) leg.

J. **Residential Property.** Any land which is on or adjacent to one or more single-family or multi-family dwellings.

K. **Surveyor.** A person who is registered with, and licensed by, the State of Alabama as a surveyor.

L. **Tower.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and any other like structure used to support wireless telecommunications transmission facilities now or hereafter in use. As used in this Section, "tower" shall include any telecommunication tower installed or constructed within the Town prior to the effective date of this ordinance, regardless of whether such tower is a monopole or another type of tower.

M. **Tower Compound.** A parcel of land or a building on which communication facilities are located.

- 1.3 *Jurisdiction of Regulations.* All communication facilities or structures greater than one (1) meter in size, including but not limited to those facilities known as “cellular”, “personal communication system (PCS)”, “paging services”, and similar services, shall comply with these regulations. However, the following shall be exempt from these regulations under the specified conditions:
- A. *Public Property.* Antennas or towers located on property owned, leased, or otherwise controlled by the Town of Ohatchee, provided a license or lease authorizing such antenna or tower has been approved by the Town Council.
  - B. *Amateur Radio or Receive-Only Antennas.* Any tower, or the installation of any antenna that does not exceed the maximum height restriction of the applicable zoning district or seventy (70) feet—whichever is less—and is owned and operated by a federally-licensed amateur radio station operator, or is exclusively for receive-only antennas.
  - C. *Pre-Existing Communication Facilities or Towers.* Any communication tower or antenna which was constructed prior to the effective date of these regulations and which complied with all applicable State, Federal, and Local codes, laws, and regulations in effect at the time of construction, provided, however, that all pre-existing communication facilities or towers shall submit a written request of exemption to the Town Council within six (6) months of the effective date of these regulations. The written request shall state the name, mailing address, business and home telephone numbers of the owner, the street address and tax parcel identification number of the property upon which the communication facilities are located, and the date upon which construction of the facilities was complete. All written requests containing the required information shall be automatically approved if received within the above specified deadline.
- 1.4 *Basic Requirements and Design Considerations.* All proposed communication facilities (towers and antennas) governed by these regulations shall comply with the following requirements and guidelines.
- A. *Compliance with FAA Regulations.* All proposed communication facilities shall comply with all applicable FAA requirements, including but not limited to, Part 77 of the Federal Aviation Regulations (FAR), as amended.
  - B. *Compliance with FCC Regulations.* All proposed communication facilities shall comply with all applicable FCC requirements, including but not limited to, the Telecommunications Act of 1996, as amended.
  - C. *Structural Safety.* All proposed communication facilities shall comply with wind loading and other applicable structural standards contained in local building and technical codes, as they may be in effect and amended from time to time, including, without limitation, the Southern Standard Building



Code and the Electronic Industries Association Code and any amendments thereto or replacements thereof, as may be adopted by the Town Council. The Town's Building Inspector or his/her designee shall determine whether a proposed communication facility will comply with this requirement.

- D. *Appearance and View Protection.* All proposed communication facilities with the exception of proposed antennas that will be co-located on a pre-existing tower shall be attractively camouflaged, disguised, or hidden in a manner that it will blend into the surrounding environment to the greatest extent possible. Examples of proper camouflaging include: designing a tower to resemble a tree, designing a monopole to look like and function as a flag pole or freestanding sign support, hiding an antenna within a church steeple, or any other effective means of disguising the appearance of a tower or antenna that may be appropriate for the setting in the area surrounding the proposed communication facility site. It shall be the burden of the applicant to document and prove that a proposed communication facility cannot be effectively camouflaged, before approval of a non-camouflaged structure may be permitted by the Town. In such instances, the applicant shall explore alternative means of minimizing the visual impact of the antenna, such as installing it onto an existing telephone pole, streetlight, or building rooftop, rather than erecting a new tower specifically for the proposed antenna.
- E. *Signs prohibited.* No signs or other forms of advertising, including signs displaying the name of the owner or user of the tower or antenna, may be attached to or depicted on a communication facility, unless the proposed facility is a new monopole specifically camouflaged and approved to serve as a permitted freestanding sign support. This prohibition shall not apply to any required warning or private property posting signs.
- F. *Construction materials.* Where applicable building codes, technical codes, and federal regulations permit flexibility in the choice of construction materials and where the selection of alternative construction materials will not compromise the structural integrity of the proposed communication facility, proposed new towers and monopoles shall be constructed of materials that have a composition, texture, and color that will most closely resemble structures and natural features that exist on and adjoining the facility site.
- G. *Health Effects.* All proposed communication facilities shall comply with all applicable FCC regulations and requirements in effect to prevent detrimental health effects from the proposed communication facilities. Under the Telecommunications Act of 1996, the Town cannot deny a request to construct a communication facility on the grounds that its radio frequency or electromagnetic emissions would be harmful to the environment or the health of residents, if those emissions meet FCC standards.



- H. *Interference with Existing Communication Facilities.* All proposed communication facilities shall comply with all applicable FCC regulations and requirements in effect to prevent interference with existing communication facilities serving the area.
- I. *Siting Requirements for Whip Antennas.* Whip antennas shall not be allowed on a wall mounted antenna structure.
- J. *Co-location.* No new tower or monopole shall be erected on a proposed communication facility site unless the applicant can document and prove that an existing co-location site is not available or is not technically capable of serving the specific telecommunication need in the area of the proposed site. This co-location requirement may be waived by the Town where the proposed antenna would create an excessively cluttered appearance on the available co-location site (thereby drawing greater visual attention to the existing antenna site or creating a more imposing obstruction to scenic views and vistas from the area) *and* the proposed new antenna would be less visible or intrusive on the surrounding area if effectively camouflaged on an alternate site. This provision will not apply to any applicant who intends to utilize the tower or pole for their sole purpose and will not allow any attachment by a third party.
- K. *Setback Requirements.* All proposed communications facilities and structures, including guys and accessory facilities, shall have a minimum setback of 10 feet. All proposed tower compounds that will be located on or adjacent to residential property shall be subject to an additional setback from all property boundaries of a site equal to the height of the tower structured, as measured from the finished ground level at the base or pad surface to the tallest point of the structure.
- L. *Lighting.* Towers may not be artificially lighted, except where required to satisfy applicable FAA regulations. Lights for security and to assist in making emergency repairs may be installed on buildings within the tower compound which contain equipment essential to the operation and maintenance of the tower. Such lights shall be shielded and directed in a downward direction from a height of not more than ten (10) feet, and no such light may exceed a maximum of one hundred fifty (150) watts. Such lights shall be located and directed so that they do not shine, reflect, or generate excessive glare onto or toward any residential property or adjoining property upon which a residential use exists or has been approved for construction.
- M. *Security Fence.* All communication facilities to be located within a proposed tower compound shall be secured by the construction of an eight (8) foot high security fence or wall constructed, at a minimum, using chain link fencing.

- N. *Landscaping.* All proposed tower compounds must be surrounded by a landscaped buffer which shall provide an effective year-round screen to a height of at least eight (8) feet upon planting in order to screen views of the tower compound from adjacent public ways, residential properties, and properties upon which a residential use exists or has been approved for construction. The buffer shall include a landscaped strip at least four (4) feet in depth located outside of the security fence or wall. The landscaped strip shall be planted with a combination of trees, shrubs, vines, and grown covers which are capable of attaining, at maturity, a height as high as the security fence or wall and which will enhance and screen the outward appearance of the security fence. The use of native species of plants and trees are encouraged to the extent that they will satisfy the requirement for adequate year-round screening.
- O. *Communication Facility Siting Priorities.* When selecting sites within the Town to locate proposed communication facilities or tower compounds, priority shall be given to locations in non-residential areas. Residential property sites shall be given the lowest possible consideration for new sites.
- P. *Access and Parking.* A driveway and parking area with a surface appropriate for the intensity of use shall be provided for each proposed tower compound to provide adequate access to the tower compound for the maintenance and repair of the communication facilities and for vehicle providing emergency services. Subject to the approval of the Town Council and to an appropriate agreement with the owner thereof, access and parking for the tower compound may be provided on an adjoining property or along one or more public streets adjoining the tower compound.

#### 1.5 *Levels of Review and Approval.*

- A. *Review and Approval by the Town Council.* The following types of communication facilities shall be reviewed and approved by the Town Council without the need for a public hearing, provided the proposed improvements fully complies with all requirements specified in Section 1.4 of this Article:
  - 1. Any antenna (and associated cables and equipment) that will be co-located on an existing approved or registered pre-existing tower, as long as the proposed antenna(s) will not protrude at any point from the exterior surface of said tower by a distance of more than four (4) feet and the tower will contain no more than five (5) antennas if the application is approved. In addition, the supporting equipment for the proposed antenna(s) shall not require the construction of any new freestanding structures on the tower compound.
  - 2. Any antenna (and associated cables and equipment) that will be sited in an existing structure that fully conforms with all applicable requirements



of this Ordinance (not a non-conforming structure) and where, after installation, the antenna and all supporting equipment will be completely enclosed by the exterior walls of the structure or completely screened from public view at any point on the land within two (2) thousand feet of the proposed antenna. An example of such a scenario would be the placement of an antenna within the steeple of a church or the dome of a farm silo. The addition of the antenna and supporting equipment to the existing conforming structure shall not require the construction of an addition to house the communication facilities. However, interior modifications to the structure may be permitted as part of the approval by the Town Council.

- B. *Review and Approval Exclusively by Town Council.* The Town Council shall have the authority to review and approve the following specific types of communication facilities and tower compounds, subject to the conduct of a public hearing.
    - 1. Any new antenna or tower that has not been previously approved.
    - 2. Any new monopole located in a residential area that is not camouflaged or disguised in such a way that it cannot be immediately recognized as an antenna support.
  - C. *Review and Approval by Town Council.* All applications must be approved by the Town Council in accordance with subsections A and B of this section. All applications under Subsection B shall be subject to public hearings by the Town Council. Final review and approval or denial of all applications shall be issued exclusively by the Town Council.
- 1.6 *Approval Procedures.* Review and approval of an application shall be conducted in accordance with the following procedures.
- A. *Receipt of Application.* All required applications shall be submitted to the Town Clerk. Upon submission, the Town Clerk shall determine that the application contains all submission requirements specified in Section 1.7 of this Ordinance and is, therefore, complete. No incomplete application shall be received by the Town for review and approval. Once the Town Clerk determines the application is complete, the application shall be determined to have been received by the Town on that date.
  - B. *Town Clerk Review.* The Town Clerk shall review the application within thirty-one days of receipt. In the event the Town Clerk determines the application is incomplete, the applicant shall be notified outlining the specific information that was not properly provided. After the application is completed,



Town Clerk shall submit the application to town council for action as may be applicable.

- C. *Public Hearing.* The Town Council shall conduct a public hearing on applications when required under these regulations at the earliest regular meeting date that will satisfy the public hearing notice requirements following the date of submission.
- D. *Decision.* The presiding body shall render a decision on the application not more than ninety (90) days from the submission of a completed application. If the Town Council fails to render a decision on the application within the ninety-day (90) period, the application shall be deemed to be automatically approved without further consideration of the Town. If the application or any part of the application is denied, the Town Council shall provide the applicant with a written letter of denial outlining the specific findings of fact used by the Town Council as a basis of the denial.

1.7 *Submission Requirements.* All applications to construct communication facilities that fall within the jurisdiction of these regulations shall provide adequate documentation to demonstrate compliance with all the applicable basic requirements and design considerations specified in Section 1.4 of these regulations.

- A. A completed **permit application package**, including the required *application fee*.
- B. A **site plan** of the tower compound, prepared by a surveyor, at a scale not less than one (1) inch to fifty (50) feet, showing the location, street address, tax parcel identification number, and dimensions of the parcel of land that will contain the tower compound, the location of all required setback lines, driveways, parking areas, buffers, fencing, landscaping, stormwater management improvements, fuel tanks (both above and below ground), and structures that exist or will be constructed on the property. If the property upon which a proposed tower compound will be located exceeds one hundred (100) acres in size, then the scale of the site plan shall be increased to one (1) inch to one hundred (100) feet, or the Town Council may grant authority to the applicant to limit the site plan coverage to a specified area around the proposed tower compound.
- C. **Written proof of ownership** of the proposed tower compound or authorization to use it.
- D. A **written report** including a description of the proposed tower or antenna with the technical reasons for its design, a certificate from the project engineer documenting the structural integrity of the tower or antenna support for its proposed use including any co-located communication facilities that may

already exist at the site, and an affidavit signed by the owner of the proposed communication facilities and the project engineer attesting compliance of the proposed communication facilities with all applicable FCC requirements with regard to any potential detrimental health effects that could be generated by the proposed facilities.

- E. A ***silhouette and elevation view*** of the proposed tower (or the existing tower, if the applicant is seeking permission to install an antenna on an existing tower) and all other communication facilities, and the tower compound, describing colors and materials to be used for the communication facilities and any security fence, decorative fence, and decorative wall. The configuration of proposed antenna arrays must be shown on the silhouette. The proposed location of future, additional antenna arrays must be shown on the silhouette by dashed lines. The elevation view shall portray the general context and compatibility of the proposed facilities with respect to surrounding structures and natural features.
  - F. Copies of any proposed ***easements***, where applicable to the project.
  - G. Documentation of the ***frequency band and wattage*** of the proposed communication facilities.
  - H. For each new monopole, tower, or antenna that is not otherwise located on a co-location site, a ***written report*** documenting the attempts made by the applicant to secure a suitable co-location site both within the Town and in the adjoining unincorporated areas and any supporting technical reasons supporting the need for a new independent site.
- 1.8 ***Application Fee.*** All applications submitted to the Town Clerk for consideration by the Town Council shall be accompanied by an application fee of One Thousand Dollars.
- 1.9 ***Removal of Obsolete Towers.*** Any tower that is no longer serving an active communication use shall be removed at the owner's expense. The owner shall provide the Town Council with a copy of the notice to the FCC of intent to cease operations and remove the tower and all associated communication facilities from the site within three (3) months from the date that all operations ceased. Where a tower serves as a co-location site, this provision shall not apply until all active users cease operation. If the owner of the tower fails to remove the tower as required, the responsibility for removal shall then apply to the owner of the land upon which the obsolete tower is located. Once the responsibility for removal has shifted to the property owner, the property owner shall remove the obsolete tower within one (1) month of the date that tower owner's removal deadline lapsed. If neither the owner of the tower nor the owner of the land removes the obsolete tower within the time prescribed herein, the Town may, but shall not be obligated to, remove the obsolete tower. If the Town removes the obsolete tower, it shall be entitled to

recover the cost of removal from the owner of the tower and/or the owner of the land upon which the tower is located.

- 1.10 *Satellite Dishes.* All satellite dishes exceeding one (1) meter in diameter shall be considered structures required to be installed in accordance with all applicable provisions of this Ordinance, the Standard Building Code, and any other applicable regulations enforced by the Town of Ohatchee. All such dishes shall be located in the rear yard of the property, and shall be set back from all property lines a distance equal to the height of the dish.
- 1.11 *Appeals.* All appeals from a decision by the Town Council shall be to the Circuit Court or FCC as prescribed by the Telecommunication Act of 1996.

ADOPTED and APPROVED this the 13<sup>th</sup> day of June, 2023.

TOWN OF OHATCHEE, ALABAMA

*St. E. Barwell*  
MAYOR

*Anthony*

*Celestia Jennings*

*J. M. Hill*

*Ray E. Howard*

\_\_\_\_\_

ATTEST:

*Karin Casper*  
TOWN CLERK

STATE OF ALABAMA \*



CALHOUN COUNTY \*

I, the undersigned, Clerk of the Town of Ohatchee, Alabama, do hereby certify that the above and foregoing Ordinance was posted in three (3) public places in the Town of Ohatchee, Alabama, on the 14<sup>th</sup> day of June, 2023.

Karin Cooper  
TOWN CLERK

6/14/23  
DATE

**RESOLUTION R-23-06-01**

**A RESOLUTION OF THE TOWN OF OHATCHEE FOR MONIES TO BE  
MOVED FROM OHATCHEE GENERAL FUND TO INVESTAR BANK FOR  
CERTIFICATE OF DEPOSITS**

**WHEREAS**, The Town of Ohatchee having monies to transfer for Certificate of Deposit with Investar Bank; and

**WHEREAS**, It be requested before the Ohatchee Town Council, giving permission to the Mayor and Town Clerk to transfer these monies from the Ohatchee General Fund for investing in Certificate of Deposits with Investar Bank as approved in the Council meeting held April 11, 2023.

**NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF OHATCHEE**; the Mayor and Town Clerk of Ohatchee are hereby authorized to transfer monies from Ohatchee General Fund for investing in Certificate of Deposits with Investar Bank and execute any and all documents required.

ADOPTED AND APPROVED this 13<sup>th</sup> day of June, 2023.


  
Town Clerk

  
Mayor

  
Council Member

  
Council Member

  
Council Member

  
Council Member

\_\_\_\_\_  
Council Member