

## ***Village of Marvin Councilman Resigns & Helps to Vote In A Responsible Successor***

- Councilman Salimao, Marvin Councilor, decided him and his wife needed to downsize their home.
- Councilman Salimao placed his Marvin home on the market in January of 2017
- Since Mayor Pollino's election in 2017, Councilman Salimao found himself aligned with Councilmen Epps
- The two were often in the minority when it came to development, finance and ethics issues.
- Councilman Salimao felt a responsibility to try and promote a successor to his Council seat
- He wanted someone to represent his supporters and those who had voted for him over the years.
- Salimao and Epps consulted with two attorneys with experience in municipal law and civil law
- Attorneys advised that an officer could participate in the vote to appoint their successor
- The NC State Constitution, NC General Statutes and an article by Professor David Lawrence confirmed: See *NCSC Art. IV §10; NCGS §128-7; §160A-62; Baxter v. Nicholson, Inc. (2008)*
- At first, it meant little since Salimao & Epps were in the minority during most meetings
- In May, Salimao's home went under contract and he was obliged, by law, to resign before June 8, 2018
- Salimao scheduled his Council resignation for the May 31, 2018 regular council meeting
- It seemed unlikely Salimao and Epps would get an appointee of their choosing, but the tides changed
- Later in May, Councilman Dispenziere stated he would be absent from the May 31 meeting
- Dispenziere's absence gave Salimao and Epps the majority needed to appoint a responsible successor
- The successor appointed would then finish the 1.5 years remaining of Salimao's term.
- In accordance with all legal processes, Salimao resigned effective upon the appointment of Mary Shkut
- This was aligned with processes detailed in the NC Constitution Art. IV §10, §128-7 and §160A-62.
- Epps motioned to appoint Ms. Mary Shkut to Councilman Salimao's Council seat and the motion passed.
- Mayor Pollino and Councilwomen Vandenberg were upset about the appointment
- Mayor Pollino said he intended to expend taxpayer funds, go to court and overturn the appointment
- Mary Shkut took the Oath of Office and graciously accepted a place at the Council table that night
- Mary Shkut also attended a unanimously called special meeting, for June 4<sup>th</sup>, with NCDOT & residents
- Mary's reputation as a patient and resilient guardian has made her a target of Pollino's developer friends
- These are allies who have grand ambitions for development -- particularly in the Village Center
- Mary Shkut followed the appointment with a gracious letter to the Council requesting they get along
- Shkut encouraged Councilors to look ahead and work together. Yet no like-minded Councilor responded
- Salimao & Epps also encouraged this. They tried to remind Pollino he still had the majority on the Council
- Even though the appointment would not change the balance of power, Pollino would not be appeased.
- Despite contrary evidence, the Village Attorney claimed Councilman Salimao's resignation was improper
- Outside of a legal meeting three Council members deemed the appointment to be invalid
- They also instructed staff members not to provide Mary Shkut with any Village Hall support.
- NC State law requires any party challenging the appointment to file a "quo warranto' writ. (GS Ch 1 Art. 41)
- Per NC State law this matter must be resolved by a judge and it is beyond a city council's jurisdiction
- Any intention to act, beyond their municipal jurisdiction, would be a political abuse of power
- An intent to usurp the appointment is an affront to their sworn Oaths of Office, to uphold NC laws
- According to meeting agendas, the Council intends to vacate the seat and usurp the appointment anyway
- Information indicates the Council may try to remove Mary, or have her arrested, if necessary
- Not only would this subvert State law, it would wrongfully deprive Mary of due process and civil liberties
- Furthermore, knowingly usurping a public office would subject a new appointee to arrest and litigation
- It remains to be seen, whether the Council will abide by the law, or take the law into their own hands.
- **UPDATE: The Council did abuse their power, try to vacate Mary's appointment and attempted to have her physically removed and arrested. After receiving public encouragement, Mary filed a law-suit. The Council almost immediately attempted to reverse their unlawful acts and recognize Mary while they filed the Quo Warranto writ (see above.) The Quo Warranto case was dismissed and Mary remains on the Council.**