

CAROLINA BEACH

Regular Town Council Minutes
Tuesday, November 12, 2019 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

ASSEMBLY

The Town of Carolina Beach Regular Town Council meeting was held on Tuesday, November 12, 2019, at 6:30 PM at Council Chambers.

PRESENT: Mayor Joe Benson, Mayor Pro Tem Tom Bridges, Council Member LeAnn Pierce, Council Member Steve Shuttleworth, and Council Member JoDan Garza

ALSO PRESENT: Interim Town Manager Ed Parvin, Town Clerk Kim Ward, and Town Attorney Noel Fox

1. MAYOR BENSON CALLED THE MEETING TO ORDER FOLLOWED BY A MOMENT OF SILENCE AND THE PLEDGE OF ALLEGIANCE

Before moving to the next item, Mayor Joe Benson recognized Town Clerk Kim Ward for 15 years of employment with the Town.

2. ADOPT THE AGENDA

a. Mayor Benson announced that the four conditional-use permits on the agenda will be moved to a special meeting on Monday, December 2, at 6:30 PM in Council Chambers.

ACTION: Motion to adopt the agenda striking items 6a, 6b, 6c, and 6d.

Motion: Joe Benson

Vote: UNANIMOUS

3. CONSENT AGENDA

a. Regarding budget amendments and transfers, Council Member Garza asked whether Council was notified that the Legislative Professional Service figure was going to breach \$18,000 and cost an additional \$6,000. Ms. Fox said yes.

Council Member Garza also asked if Wave Transit was going to stop running next year. Ms. Fox, who disclosed that she is also the attorney for Cape Fear Public Transportation Authority, said the request in the budget amendments and transfers was for additional funding and that Wave Transit had reached out to all funding partners to ask for this. She said it was not correct that Wave Transit will cease to operate next year but that the New Hanover County Board of Commissioners voted to withdraw from the interlocal agreement that formed Wave Transit and how that plays out is mostly between the City of Wilmington and New Hanover County.

Mr. Parvin said the request for an additional \$1,800 is on the January consent agenda and that a representative from Wave Transit would be present at that time. Mayor Benson added that public comment on the matter is open until November 26.

Council Member Shuttleworth asked where the remaining \$322,000 of room occupancy tax dollars are earmarked in the budget. Council Member Garza asked for that information by the end of the week.

ACTION: Motion to approve the Consent Agenda.

Motion: Joe Benson

Vote: UNANIMOUS

The following items were included on the Consent Agenda:

- Budget amendments and transfers as presented by the Finance Director
- ROT reimbursement request
- Appointments to the Board of Adjustment
- Minutes for special meetings on October 3, 4, and 8; the regular meeting on October 8; and the workshop on October 22

4. SPECIAL PRESENTATIONS

a. Presentation of Annual Financial Audit

Victor Blackburn from Bernard Robinson and Company presented a summary of the annual financial audit to Council. He mainly discussed a short version of the financial statements called the Management Discussion Analysis. This offers a summary of the Town's financial status as of June 30, 2019, but also compares it to June 30, 2018. Mr. Blackburn said the Town's revenues increased almost \$3 million between 2018 and 2019 but that expenditures only increased by about \$1 million during the same time. Therefore, the overall change in net position of the Town went from a little over \$1 million last year to about \$2.8 million this year.

Mr. Blackburn said the town received an unmodified opinion, which is the cleanest opinion, and also added that the single audit that had to be done this year because of federal funds also receive an unmodified opinion. He said no material weaknesses or significant deficiencies in the design or operations of the Town's internal controls were identified and that overall the Town received a clean audit for 2019.

Mayor Benson said because the time frame of the report ends on June 30, 2019, it does not include FEMA funds received that would have contributed to the fund balance by 5 percent. He also said the report does not factor in what the Town calls the "sand strategic fund," which is \$1.6 million that would have contributed another 10 percent to the fund balance. This is money that is set aside in case the federal government pulls out of the beach renourishment program.

b. Presentation by Step Up for Soldiers

Bobby McConville of Step Up for Soldiers presented a plaque of appreciation to the Town for support of the organization's events during an eight-year partnership that has raised approximately \$100,000.

Council Member Pierce said she had spoken to Wilmington Mayor Bill Saffo who wanted her to pass along his thanks for the great job with the Veterans Day parade in downtown Wilmington.

c. Special Events Update

Parks and Recreation Assistant Director Tim Murphy presented the events scheduled for

November and December:

- Help for Hope Town
- Controlled Burn at Cape Fear Boulevard
- Lighting at the Lake
- Christmas by the Sea
- Christmas Parade
- Holiday Market
- Christmas Flotilla
- Holiday Movie at the Lake
- State Park Trail Half Marathon & 5K
- New Year's Eve Celebration

d. Manager's Update

Mr. Parvin gave an update on the following topics:

- Coyotes
- Hurricane Dorian
- Hamlet Ocean Rescue Building
- NCDOT Response to Pedestrian Safety
- Lanier Parking
- Canal Drive Stormwater Check Valves
- Upcoming meetings – Freeman Park November 13, Board of Adjustment November 18, Lanier Presentation on the Parking Program November 19, Four Conditional-Use Permit Hearings December 2, Canal Drive Committee Special Meeting for the Public December 3, Swearing-In Ceremony December 10
- Land-Use Plan Tentative Timeline
- Inlet Hazard Area
- Community Outreach

Council Member Pierce asked if they were going to see a new design for the Hamlet Ocean Rescue Building. Mr. Parvin said he briefly saw one that day and that it had condensed the building as Council had requested. Instead of a U shape it is now an L shape. The price of the new design went down \$84,000.

Council Member Pierce asked when the lease is up on the old property for Lanier Parking. Mr. Parvin said the lease is up at the end of December and it should save \$1,350 per month.

Mayor Benson asked in regard to Hurricane Dorian and storm debris if any progress had been made with MOTSU on a longer-term lease. Mr. Parvin said conversations are still ongoing, but the point of contention was still where the Town is with the cleanup. Mr. Parvin said the Town did get a good report with the test wells they are maintaining, but they have to maintain that for a year. Mayor Benson also asked whether the lake dredge material and the Town assisting MOTSU in securing that material was something that could also be discussed. Mr. Parvin said he hopes so. He said an engineering firm has prepared a letter for the Town to give MOTSU about a plan to start back with the lake dredge project, but a lot of it will be contingent upon what happens with the remaining testing.

Council Member Shuttleworth asked if issues go back to the landfall that was previously in the

area. Mr. Parvin said some contaminants came from that landfall and even though it was capped off legally and appropriately, those standards would not meet today's standards. Council Member Shuttleworth asked if the Town had heard from Fort Fisher about fill requirements at their site and the construction schedule for the new building. Mr. Parvin said he had not, but the Town has a plan for some of that fill material already and he thinks the Town can use the majority of it, but if it can be used for Fort Fisher as well that would be a good opportunity. Council Member Shuttleworth asked if it had been communicated to MOTSU that this would be a short-term, interim staging place for the material coming out of the lake. Mr. Parvin said the Town has given MOTSU a letter stating proposed uses for the spoils material but hasn't yet gotten a response. He said the response continues to be asking where the Town is with the cleanup.

Mayor Benson asked about funding strategies for stormwater priorities in case the next Council chooses to adopt those priority stormwater areas. Mr. Parvin said he would look at the Town's capital improvement program for the next 10 years and try to come up with some strategies. He said he hopes to address that as the Town is planning for the next budget year.

Mayor Benson asked regarding the NCDOT approvals on state-owned highways as it relates to Ocean Boulevard whether the Town can revisit a reduction from 45mph to 35mph from Dow Road to the Island Greenway. Mr. Parvin said he had discussed this today at the staff level and that until NCDOT gets additional data showing something other than what they've already collected they would not be willing to do that and it would likely be a few years before the Town could ask them to address that again.

Council Member Pierce said Town staff had been asked to identify properties that could potentially be affected by the new inlet hazard area and the Town would also ask a representative from the Division of Coastal Management to come speak to the public to explain how these maps are drawn. She said Council requests that staff set up a meeting before the issue goes to the Coastal Resources Commission. Mr. Parvin said that would be done.

Council Member Shuttleworth asked Mr. Parvin to share some good news the Town had recently received. Mr. Parvin said for over a year Town Council and members of community had been working hard to lobby a change in regulations that would not allow sand from the Carolina Beach Inlet, which is in a Coastal Barrier Resources Act (CBRA) zone, to be moved to a non-CBRA zone. He said this posed a major issue for the Town's coastal storm damage reduction program, which relies on taking sand from the inlet and putting it on the beach. Mr. Parvin said through lobbying efforts the ruling has now been changed and will allow our coastal storm damage reduction program to proceed, which he described as a big win for the Town. Mayor Benson credited former Mayor Dennis Barbour with leading this initiative.

Council Member Pierce asked Mr. Parvin to share the new design for the Hamlet Ocean Rescue Building with Council. Mr. Parvin said he would do that.

5. PUBLIC COMMENT

a. Richard Anderson of 403 S. 6th Street said he has lived at 6th and Clarendon for 30 years and expressed concerns about where the Island Greenway is going. Mayor Benson said that would be presented in a rendering shortly.

b. Tom Elicson of 1520 Bowfin Lane questioned why Clarendon Avenue rather than other streets with higher pedestrian and vehicular traffic was a priority for a multi-use path.

c. Paul Levy of 1606-1 Mackerel Lane, who had previously expressed concerns about speeding, running stop signs, and commercial traffic on Mackerel Lane between Ocean Boulevard and Alabama Avenue, said he would like to see some traffic calming measures such as speed humps or rumble strips in the area. He also questioned whether a multi-use path was appropriate for a low-traffic area such as Clarendon Avenue.

d. Mary Batson who said she has been a resident of Clarendon Avenue for 39 years said no one on the street wants the multi-use path. She was concerned about safety when residents back out of their driveways, future maintenance and upkeep of the path, drainage issues, and loss of trees. She said there are other areas of the Town where a multi-use path should be a priority.

e. Mark Miller expressed concerns about crosswalks. Council Member Pierce asked Mr. Parvin to put this on the top of his list.

f. Sue Paul of 617 Spantenburg Avenue said she has the closest house to the bike path on Spantenburg Avenue and sees several near-accidents from her porch every day. She said she has similar concerns about the multi-use path on Clarendon Avenue.

6. PUBLIC HEARINGS

a. Consider a Conditional Use Permit at 401 Marina St - Carolina Beach Marina and Yacht Club to operate an eating and drinking establishment that will consist of a floating barge located at 401 Marina St. Applicant: CBYC,LLC

This item was moved to a special meeting on Monday, December 2, at 6:30 PM in Council Chambers.

b. CUP: 1012 S. Lake Park Blvd - Business PUD - Applicant: Ralph Roof

This item was moved to a special meeting on Monday, December 2, at 6:30 PM in Council Chambers.

c. CUP: 406 Harper - Residential PUD - Applicant: The Pioneer Group

This item was moved to a special meeting on Monday, December 2, at 6:30 PM in Council Chambers.

d. Conditional Use Permit: For a 2-unit detached residential Planned Unit Development located at 504 Keys Lane. Applicant: The Pioneer Group NC Inc.

This item was moved to a special meeting on Monday, December 2, at 6:30 PM in Council Chambers.

e. Public Hearing - Clarendon Avenue Multi-Use Path Project

Mayor Benson set the stage by saying there would not be a motion to disapprove the project. He said the project has already been approved and is in the current budget.

Project Manager Jerry Haire gave an overview and chronology of the project. He explained that its purpose is long-term connectivity for the overall community. He addressed a previous comment that multi-use paths were being planned for areas that have a 90-foot right-of-way and said this is correct because there is not room for them elsewhere. Mr. Haire said when the founding fathers planned the Town's street system in the 1920s they designated these larger streets to be connection points for the community. He said the Town would bring on an arborist at the time of construction to assist with the identification of tree and vegetation preservation efforts.

Ross Massey of Stewart Engineering, lead engineer for the project, also spoke about the design of the path and stated that he thinks it is a good design and should be completed as designed.

Mayor Benson made a motion to open the public hearing. Motion passed unanimously.

Rodney Kidd of 618 Clarendon Avenue passed some printed materials to Council. His wife Amy Kidd gave a presentation urging Council that even though the project has been funded and approved to rethink and consider smart changes before moving forward with costly mistakes. She said after researching expert opinions she thinks the project does not follow best practices. She asked Council to eliminate the Clarendon Avenue multi-use path because she thinks there are better ways to achieve connectivity. She said would like to see Council review/revise the current plan, keep the path on one side of the street, and narrow the path/buffer width. She said the current plan was poorly designed and urged Council not to let it move forward as is.

Dennis Barbour who said he has lived on Clarendon Avenue since 1973 said he agreed with the Kidds' presentation. He said residents in the neighborhood are not in favor of the project as presented. He said Clarendon Avenue residents have treated the 18-foot portion of the right-of-way that will become the path as their own property and invested in it financially, so they want to have a say in what happens to it. He also expressed concerns about traffic and pedestrian safety as well as future upkeep and maintenance, plus the elimination of teacher/overflow parking for Carolina Beach Elementary School. He asked Council to listen to residents because he doesn't think they had a chance to speak about the issue prior to approval at the budget session.

An unidentified speaker suggested if there must be a path to have it one way on Clarendon Avenue and one way on Atlanta Avenue.

Ricky Niec of 702 Clarendon Avenue said he had concerns about how close the path will run to private residences. He mentioned accommodations that were made for those in Carolina Sands who complained about the proximity of the Island Greenway and asked Council to show the same consideration for residents of Clarendon Avenue. He also said he had concerns about safety due to the path crossing Clarendon Avenue instead of staying on one side. He also questioned the necessity of the path and whether it is really a priority for this street. He also said concerns from residents were not adequately addressed in the information meeting on September 19. He also said he took issue with the cost of the project and its ongoing maintenance and considered it an unnecessary expense. He asked Council to reject going

forward with the Clarendon Avenue Multi-Use Path Project.

Dante Landucci of Lighthouse Drive said while he appreciates the fact that there is consideration for a bike path, he is not in favor of the crossover design and said it doesn't make sense. He also said the volume of bicycle and vehicular traffic does not call for a path that wide. He also expressed concerns that intersections in the Town are unfriendly and dangerous toward bicyclists. He said he'd like to see Council talk to people who do these recreation activities about how they can feel safer.

Savannah Batson of Florida Avenue who is a lifelong resident of Carolina Beach and grew up on Clarendon Avenue said the path is not necessary. She said it will bring new people to the area walking, looking, and peering, resulting in decreased privacy. She also said it is irresponsible to spend taxpayer dollars on the walkway when there are other priorities. She said she is worried that golf carts will use the path. She said most of the residents of that area have been there for a long time and deserve consideration.

Todd Piper of Clarendon Avenue said while he understands the desire to have connectivity through the Town, he doesn't think the size of the path is necessary. He said he thinks the crossover design is dangerous and that people will stay on one side of the road anyway. He said he would like to see more multi-use paths within 10 years so people can park vehicles at Mike Chappell Park and navigate the Town via bicycle.

Amy Kidd of 618 Clarendon Avenue said it was her understanding that Clarendon in its original design was supposed to go around the lake and connect to Lake Park Boulevard so that's why it was given a 90-foot right-of-way. She said this ended up not happening and the right-of-way stopped. Mayor Benson asked her to share an email he had recently sent to her and other residents with others in the audience because he thinks it will provide some context with the budget.

Mayor Benson made a motion to close the public hearing. Motion passed unanimously.

Council Member Shuttleworth said the path has been discussed since 2011 and shouldn't be new to residents. He said it's not a traffic volume issue but a key component in an overall plan for a pedestrian-friendly, bike-friendly town. He said while he is still a strong advocate for connectivity, he would be in favor of putting off a decision so the Town can look into redesigning some of the elements that are of most concern, including the width and the crossover design. Council Member Shuttleworth said although there are 40 residents in the Clarendon Avenue area that are not in favor of this, there are 6,000 residents in the Town and feedback from them has shown that the top priority behind a community pool is connectivity.

Mayor Benson said his earlier comment that a motion had already been made did not mean to imply an inability to look at some other options.

Council Member Pierce asked Mr. Haire to clarify some of the figures he presented. She questioned whether people would really be happy if the path followed one side of the road. Council Member Pierce said it concerned her that some residents were saying they didn't know about this issue until recently. She wanted to ensure that the Town did its due diligence and asked about the number of public hearings that were held on the matter. Mr. Haire said over

the years there have been a number of open houses, workshops, and other opportunities for public input. Council Member Pierce also asked for some clarification of funding figures and wondered if it was possible to move the path to all one side and if money is available in the budget for this, although she said she isn't sure this change would satisfy the public. She asked if the grant money had to be used for a multi-use path or if it could go toward something else. Mr. Haire said the grant is project-specific and could not be used for something else. He also said the 18-foot size is a minimum standard that is required by the grant and could not be decreased if the Town wants to use those funds.

Council Member Garza said based on what Council is hearing he thinks the issue should be tabled for a while. He said the Town should save the money, paint a simple stripe down the road and put up some signs directing people from Mike Chappell Park to the lake.

Mayor Pro Tem Bridges said with new Council coming in he was in favor of not making a decision on the matter now because it could be undone later anyway. He said he understood residents' concerns about losing the right-of-way from their yards.

Mayor Joe Benson said he thought it was important not to make a decision emotionally. He said he thought the Kidds' presentation was compelling and felt good making a decision to table based not on pressure but on the analytics, dispassion, and intelligence that were on display during the public hearing.

Mayor Benson asked for someone to make a motion. Mayor Pro Tem Bridges said he did not think a motion to table was necessary. Mayor Benson said from a procedural standpoint Council would just sit on it.

Mr. Haire asked for direction on how to proceed with staff work on the project. Council Member Shuttleworth said he would not recommend spending a lot more time on it because the project would likely not include the grant money because he is hearing a strong push to make the path substantially narrower. Council Member Pierce said let the new Council take a look at it and see if they could come up with a better idea. Mr. Haire said he infers that to mean staff should pull the plug on any work on the existing project. Council Member Garza said the answer is yes.

Council Member Pierce encouraged one of the speakers to come to the Town's next Bicycle and Pedestrian Committee meeting on the third Monday of the month to discuss some of the ideas he presented tonight.

Mayor Benson called for a 10-minute break.

f. Text Amendment to Amend ARTICLE II. - TRAFFIC REGULATIONS, Sec. 16-56. - Driving on Concrete Portion of the Boardwalk

Director of Planning and Development Jeremy Hardison gave an overview of the matter, which would address construction deliveries that would accommodate vehicles on a limited basis. The proposed ordinance requires that a permit must be issued for any deliveries occurring on the concrete portion of the boardwalk and are limited to 30 minutes for each dropoff and pickup. Deliveries using a golf cart occurring Monday through Friday from 3:00 a.m.-9:00 a.m. are exempt from permit requirements.

Council Member Shuttleworth asked if those hours could be extended during the off-season. Mr. Hardison said staff could look into this.

Council Member Pierce asked if this was also crafted for bands that want to set up prior to a show. Mr. Hardison said yes. Council Member Shuttleworth said he had a problem with requiring bands to get a permit. He said this proposal was a knee-jerk response that was trying to be all-encompassing but did not address off-season hours and the difference between construction and day-to-day ongoing business operations.

Council Member Pierce also questioned who would have a golf cart available to make the deliveries.

Mayor Benson asked if this is something that is time-sensitive or if there would be an opportunity to get input from business owners.

Council Member Pierce asked if this was related to an issue with a band that was unloading in the Boardwalk area but then complained that there was nowhere nearby to park. Mr. Parvin said yes, this was related to that scenario. He said the purpose of the ordinance is to create some allowance for deliveries without a permit. He said the Town was comfortable with golf carts because they posed a limited chance for damage to public property. He said a vehicle would pose more chance for damage and therefore would need a permit. He said some business owners in the area have been transferring supplies with a hand cart but that the Town is trying to make some further allowances to accommodate.

Council Member Shuttleworth said he is in favor of requiring a permit for a construction contractor but that bars should be allowed to get an annual permit to allow for deliveries of band equipment. He said let's figure out a way to allow business owners to access their business for day-to-day reasons.

Council Member Pierce said she has seen vehicles parking in the gazebo area and worries about the wear and tear that is causing on that concrete.

Council Member Shuttleworth said once bands unload they need to find a proper spot to park and not use the gazebo area.

Mr. Parvin said there is liability insurance for events but not for day-to-day unloading.

Mayor Pro Tem Bridges agreed that he would like to see the time for exempt golf cart deliveries expanded during the off-season.

Mayor Benson made a motion to open the public hearing. Motion passed unanimously.

David Cole, owner of Hurricane Alley's, said he has received several tickets for violating the current ordinance. He said he some of the proposed terms need to be changed, such as extending the times for exemption. He said even during the in-season that he would be in favor of exemption until noon instead of 9:00 a.m. Mayor Benson said he wants to get input from him directly to pass to staff.

Council Member Pierce said she hears from some that there is no enforcement of the current ordinance and others that there is too much, so she would like to see some balance.

Mayor Benson made a motion to close the public hearing. Motion passed unanimously.

7. ITEMS OF BUSINESS

a. Approval of Financing Terms for Hamlet Facility and 3 Carolina Beach Avenue South

Mr. Parvin said BB&T would not honor its original rate offer so there is a new resolution indicating that the rate has increased from 2.38% to 2.49% for 15 years.

ACTION: Motion to approve Resolution #19-2213

Motion: Steve Shuttleworth

Vote: UNANIMOUS

8. NON-AGENDA ITEMS

a. Council Member Pierce said she and Council Member Shuttleworth attended the Beach, Inlet & Waterway Association conference and received a lot of good information and engaged in good conversations during the event. Council Member Shuttleworth said they heard a lot about leases for oyster harvesting. He encouraged staff to work with the state to get an oyster bed in the harbor for water purification.

Mayor Benson thanked Finance Director Debbie Hall for her work with the audit. He also said he received an email from the Coastal Federation in Raleigh indicating that there is funding now from the state for living shorelines and natural ways to protect intrusion. He said at the upcoming Canal Drive Flooding Advisory Committee a group will provide input, send it back, and plan a visit. He said that will end up being at the open house on December 3.

9. CLOSED SESSION

ACTION: Mayor Benson made a motion to go into closed session to discuss an attorney/client and personnel matter in accordance to NCGS 143-318.11(a)(3) and (6). Motion passed unanimously.

The matters being discussed include:

TCB vs. Carolina Freeman LLC NHC 18 CVS 3151

TCB vs, B&F Enterprises LLC NHC 18 CVS 3152

TCB vs DRDK, LLC NHC 18 CVS 3153

TCB vs Freeman Beach, LLC 18 CVS 3154

10. ADJOURNMENT

a. Mayor Benson made a motion to return to open session stating that no action was taken during closed session. Motion passed unanimously.

Mayor Benson made a motion to adjourn. Motion passed unanimously.

Approved 1/14/2020

Kimberlee Ward, Town Clerk

