

CAROLINA BEACH

Regular Town Council Minutes
Monday, April 8, 2019 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

ASSEMBLY

The Town of Carolina Beach Regular Town Council was held on Monday, April 8, 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

ABSENT:

ALSO PRESENT: Town Manager Lucky Narain, Finance Director Debbie Hall, Town Clerk Kim Ward, and Town Attorney Noel Fox

1. MEETING CALLED TO ORDER WITH INVOCATION GIVEN BY PASTOR SHAWN BLACKWELDER WITH ST. PAUL'S UNITED METHODIST CHURCH, FOLLOWED BY THE PLEDGE OF ALLEGIANCE

2. ADOPT THE AGENDA

ACTION: Motion to adopt the agenda.

Motion: Joe Benson

Vote: UNANIMOUS

3. CONSENT AGENDA

a. Approval of the Consent Agenda

Items approved on the Consent Agenda include:

Budget amendments and transfers as presented by the Finance Director.

Meeting minutes from February 12 and 26, 2019.

Set a public hearing for May 14, 2019 to allow the public an opportunity to give feedback on the FY19/20 budget.

Council Member Garza asked about the \$30,000 being transferred. He asked where this money was coming from.

Mark Meyer said that staff has been performing jobs in house that has saved money versus contracting out the work.

Council Member Garza asked about the tsunami camera. Council said they do not remember

discussing this purchase. Chief Spivey said that this is an item that was requested last budget year but was cut out.

Attorney Fox suggested pulling this item off the consent agenda and discussing it during Items of Business.

Council Member Shuttleworth asked staff to advertise the public hearing for the budget next month.

ACTION: Motion to approve the consent agenda with the exception of the \$9,000 budget transfer for a Tsunami camera. That item will be pulled for further discussion.

Vote: UNANIMOUS

4. SPECIAL PRESENTATIONS

a. Special Events

Brenda Butler presented the events for April and May.

Mayor Benson asked if the Jeep Go Topless event is still scheduled.

Ms. Butler said that it is scheduled for May 18 but since it is not a Town sponsored event, they do not advertise it.

Council Member Shuttleworth asked that the Jeep go Topless event come back to Council for discussion.

Council Member Garza mentioned that the Farmer's Market has changed to the Market so they can expand to other vendors.

Council Member Pierce said that this was the first she had heard about it and felt that this change should have come through Council.

Council Member Shuttleworth explained that the Parks and Rec Department was having trouble finding true farmer's for the market so they agreed to change the restrictions and call it a market.

Brenda Butler said that there is a new request for a 5k/10k event on Sunday, September 22, 2019 7 am - 12 noon. They want to run it exactly like the Steve Haydu Lo Tide Run. The applicant was not in attendance to present their request.

Council asked to Ms. Butler to bring this back to the workshop so they can see the route and what the run is about.

b. Manager's Update

Mr. Narain mentioned the pilot program that was rolled out last week to make staff more available to the media by dedicating an hour slot on Tuesday afternoons.

Last week he rolled out the first bi-weekly report.

Council Member Shuttleworth asked that the police department continue to report their crime statistics weekly. The Island Gazette has expressed an interest in receiving this on Mondays.

Mr. Narain mentioned that he is putting together an update from the committees and that will come out soon.

He explained the concerns regarding the water billing issues. If staff notices there is a spike in someone's usage, they will contact the owner and give them an opportunity to find the leak and correct the issue. They are allowed one adjustment per year.

He addressed the complaints about having to pay to park at night. Mayor Benson asked how much revenue the Town would gain by having the extra hours. Mr. Larain replied that it is \$35,000.

He mentioned that Henniker's Ditch passed the MOTSU inspection today.

Brian Stanberry added that the Town had all the vegetation removed. The total cost was \$45,000. Next year they will remove the sedimentation.

Mr. Narain said there was a question about providing a discount on Town parking decals for veterans. He said staff would research and get back to Council.

Council Member Pierce asked about golf cart parking. Lanier parking was going to look at adding golf cart spaces. Mr. Narain said he would get with Lanier and get back to Council.

Mr. Narain informed Council about the upcoming pay study. The police department pay study has already been completed. Funds are allocated in this current budget year for the studies.

Staff is researching automated time keeping software. They have looked into ADP and other solutions. He hopes to have an update next month.

Staff members are also working on a new website and Facebook design. There should be an update on that in the next 30 days.

Mr. Narain explained the Town's use of the electronic billboard located at 1401 North Lake Park Boulevard. The Town is allocated one ad for 8 seconds that displays every 56 seconds. He reviewed the signs that are currently being displayed on the board. You can have as many ads that you would like in that one, eight second spot.

Council Member Garza said he would like to go back to the water billing issue. He asked if there was anything that shows huge spikes that Town staff could see and notify the property owner.

Public Utilities Director Mark Meyer replied that the Town gets a notification and staff will contact the property owner to advise them of the spike in usage.

Council Member Shuttleworth asked if the Town's side of the water system ever breaks or if the equipment is ever faulty. He said he had a hard time understanding how someone's water bill could jump to \$800 from a simple toilet leak.

Mr. Meyer said it is a mechanical meter and in 5 years, he has only seen one break.

Council Member Shuttleworth asked if these high bills are truly issues in the home.

Mr. Meyer said that it is and that they notify the owner and if they get it fixed, their account can be credited.

Council Member Pierce asked Council Member Shuttleworth if he would ask the marketing committee to fund more ads on the billboard. Council Member Shuttleworth said they are not going to spend MAC dollars on an additional ad on the billboard.

Mr. Narain said it would cost \$1,300 per month for an additional ad.

c. Update on the Land Use Plan

Jay McLeod with Stewart gave an update on the land use planning process. They started in October and plan to be wrapped up in July. They will be hosting another public open house on July 16, 2019 to review the final draft of the plan. The online public survey received 494 respondents over 3 weeks. There is a website: www.carolinabeachcamaupdate.com that you can find the current status of the plan.

Council Member Shuttleworth asked for clarification on the purpose of the Land Use Plan. When the Land Use Plan is adopted and someone wants to do something that is contrary to the Plan, do they have to amend the entire plan?

Mr. McLeod replied that is the way it used to be but the law has changed.

Council Member Shuttleworth asked if the plan is considering some zoning changes.

Mr. McLeod said there is a lot of respect for the existing development pattern but it does show some dialing back and ratcheting up in some areas.

Ms. Fox reminded Council that this is just a plan.

Council Member Shuttleworth cautioned staff and Council that if you start changing the use of people's property, you may want to contact them now to give them a heads up.

Council Member Shuttleworth mentioned a specific property at Carolina Beach Avenue North and Pelican Lane. He asked that they look at that particular property. He also asked that Council be educated on how the process will work moving forward.

Ms. Fox said that she would put something together.

5. PUBLIC COMMENT

- a. Kevin Fritzingler said he has sent the Town several emails about the sail boat in the bay and has not received a response. He asked for a status on the boat being removed. It has been 2 months since he reported it.

Council Member Garza gave an update that the Town is working on it and the USCG was here last month and explained their limitations. He asked staff to include Mr. Fritzingler on future correspondence regarding this vessel.

6. PUBLIC HEARINGS

- a. Non-profit Funding Request from CBDI

Council Member Garza stated that the deadline for receiving requests for ROT dollars was back in January. Town staff reached out to CBDI several times asking for their documentation and did not receive a response.

Mr. Wilcox replied that CBDI members were not as fortunate as others were during Hurricane Florence and have not had the time to work on their request. He presented their request for \$32,875.

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

No one spoke.

Mayor Benson made a motion to close the public hearing.

Council Member Shuttleworth made a motion to approve \$32,875 for CBDI events. Motion carried unanimously.

- b. Conditional Use Permit - Consider a Conditional Use Permit for Wake N Bake to serve alcohol located at 1401 N. Lake Park Blvd. unit 46. Applicant: Daniel Tangredi

Mayor Benson asked anyone planning to speak to get sworn in by the Town Clerk. The following were sworn in:

Applicant Daniel Tangredi

Attorney Ned Barnes

Planning Director Jeremy Hardison

Attorney Noel Fox gave an explanation of how the evidentiary hearing process works and that Council will only hear facts and not opinions. She asked if anyone on Council had any partiality to disclose or recusal to offer.

Council Member Garza stated that he works for the company and feels that it would be best if he removed himself and asked Council to vote to excuse him from this public hearing.

Mayor Benson made a motion to recuse Council Member Garza from the hearing.

Motion carried unanimously.

Ms. Fox asked if any member of Council had an ex parte to disclose. No one spoke.

Ms. Fox asked Council Member Garza to wait in the conference room.

Mr. Hardison presented the request for a Conditional Use Permit from Wake and Bake located at 1401 North Lake Park Boulevard.

Mr. Hardison:

They currently have a permit from the Town as an eating establishment. If a bar is approved for this location, it does allow them to serve alcohol. According to the Carolina Beach Ordinance, if you serve alcohol, you are classified as a bar, restaurant, or a brewery. The adjacent uses in the Food Lion Shopping Center are restaurants, a library, and services. The plan is to sell beer that is paired with donuts and to serve alcohol infused donuts. They are in the highway business which is zoned for services. There will not be any changes to their floor plan other than adding coolers. The desired future land use continued use as a highway business corridor. Commercial uses shall primarily include retail, office, restaurant, entertainment, and service. There are requirements on the impact on bars for adjacent uses. No new bars shall be permitted within 200 feet of an established church, school, or residential district. The proposal meets this criteria. The applicant has met the 7 specific standards and the 4 general conditions. The action must be consistent with these findings or denial must be related to one or more of the findings. You would have to state specifically which one. Planning and Zoning did recommend approval at their last meeting. Staff agrees that it meets all of the required conditions.

Council Member Pierce: Because the current business is not a restaurant, that's why you are saying it would be classified as a bar.

Mr. Hardison: Correct, it is under ABC regulations. They have specific criteria that if you are issued a permit for a standard restaurant you have to have a certain number of indoor seats and a certain type of kitchen facilities.

Council Member Pierce: So if the current owner leaves, it can continue to be a bar?

Mr. Hardison: That is correct. A bar could come in and they would not have to sell a single food item.

Council Member Shuttleworth: What is the State's definition of a restaurant and Carolina Beach's definition of an eating establishment? Why do they not meet the criteria for a restaurant?

Mr. Hardison: They are the same definition.

Council Member Shuttleworth: So why can't they be considered a restaurant?

Mr. Hardison: Because you have to have 36 indoor seats and specific kitchen equipment.

Mayor Benson: The applicant may now come up and present their request.

Attorney Ned Barnes: The applicant meets the four general conditions and the seven specific standards. He distributed a letter from the property owner Matt Yates approving the request. The owner of the buildings have very tight restrictive covenants and advised the applicant to meet with the owner to discuss his intentions and they came back with a letter dated January 24, 2019 stating that in no event shall alcohol sales exceed twenty-five percent of the business conducted therein nor shall Tenant sell packaged beer for off-premises consumption. The Tenant's catering business is excluded from said restriction.

MPT Bridges: The letter from Food Lion states "single serving sizes", it doesn't address multiple single servings. Does that mean they can only have one?

Applicant Daniel Tangredi: (Inaudible)

Council Member Pierce: I'm sure Food Lion has a team of attorneys that looked at this.

Council Member Shuttleworth: Explain to us how you're going to run the business.

Mr. Tangredi: We are a donut shop. It's a growing trend. I follow several donuts shops across the states and pairings are becoming popular with pastries. There are a lot of events that revolve around alcohol and sugary desserts. For the last four years, we have been partnering with local breweries, restaurants, and bottle houses. We have been providing donuts to them for their events and my effort was to find out how we throw those events here. Not sure if this market is going to make it or not but it's something we want to try out. It's a cool date night to try four different pastries and pair them with four different beers that are designed for those. It's similar to coffee shops adding certain foods to their menu. We would be having events where we sell tickets to come to the pairings.

Council Member Pierce: So if you infuse a pastry and someone buys it to go, is that legal?

Mr. Tangredi: I would assume there would be some things that we could not sell "to go" but we would have to get with the ABC to iron out those details. We intend to follow all the rules.

Mayor Benson: We are here to approve or deny the Conditional Use Permit, post that you plan to pursue your ABC liquor license?

Mr. Tangredi: Exactly.

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

No one spoke.

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

Council Member Shuttleworth: If the landlord is ok with it. Ultimately it makes it a bar but the landlord has additional restrictions. He's in the donut business not the bar business.

Council Member Pierce: I agree with Steve. The restrictions from the landlord are more restrictive than the Town's. Whatever your business model is, is not really my business on whether it's going to work for you or not, the market will dictate that.

Council Member Bridges: I don't drink so I won't participate but one thing that's not in the realm of this is the number of small places that we have on the Island that serve alcohol and the number of DUI's that we have here. If you ever go to the AA meeting, you can forget about parking anywhere around that block. Those are concerns that are outside this decision. The concept just described to me is different than what I thought when I saw the public hearing. I'm glad you explained it.

ACTION: Motion to serve alcohol at 1401 N. Lake Park Blvd unit 46. The use meets all required conditions and specifications. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the town Land Use Plan and policies.

(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by issuance of the C.U.P.

(2) That the use meets all required conditions and specifications;

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the town Land Use Plan and policies.

Also consider if request is consistent with the Land Use Plan, and approval subject to meeting all 7 required findings, general conditions 1-4.

Motion: Joe Benson

Vote: UNANIMOUS

- c. Text Amendment: Consider amending Chapter 4 - Animals and Fowl, Sec. 4-2. - Harboring and keeping of animals and fowl; to not include Miniature Vietnamese pigs as common accepted domestic animals in town.

Council Member Shuttleworth asked why this was coming to Council because they just discussed chickens last year.

Mr. Hardison replied that Planning and Zoning had requested this item come to Council. He presented the request to remove Vietnamese pigs as common accepted domestic animals in the

Town Code.

Mayor Benson made a motion to open the public hearing.

Sandy 104 #2 N Carolina Avenue spoke about her pet pig, Rudy. She said it is a pet and not livestock. She requested that Council not restrict pigs on Carolina Beach.

Fred Grady 608 Cape Fear Blvd. asked Council to look into the vaccinations that are required for pigs.

Mayor Benson made a motion to close the public hearing.

Council agreed that no action would be taken.

7. ITEMS OF BUSINESS

- a. Presentation on "Be a Looker" Bicycle-Pedestrian Safety Campaign

Nick Gannon the transportation manager with the WMPO presented the new "Be a Looker" campaign that they will be running for six months.

- b. Update on Town & NCDOT Coordination & Activities

Brian Stanberry presented an update from the meetings with NCDOT. We proposed an east/west crosswalk at Publix. DOT supported the idea but said they did not have the budget for it. They would support the Town funding it.

Council Member Pierce suggested talking with Publix about assisting with the cost.

Mr. Stanberry continued to say that DOT denied the request to put a crosswalk at Winner and Lake Park. They will conduct further traffic counts this summer.

Lake Park and Hamlet - DOT was not opposed but the Town would have to maintain it. They actually suggested having a fully operational traffic signal at this location.

Lake Park and Atlanta - They had some concerns at this location with turning movements. They will continue to evaluate this.

Ocean Blvd and the Greenway Trail crossing - They are not opposed but we would need an encroachment agreement.

South Lake Park Boulevard - Staff suggested removing the existing parking spaces on the west side and installing a bike-ped path. DOT was fine with that recommendation. Town staff will continue to evaluate.

Tennessee, Carolina Sands, Ocean, and Alabama crosswalks - DOT was not opposed. There is an encroachment request in process.

Dow Road and Harper - Staff suggested a center refuge island and double mounting of beacons and signs. DOT will consider the island further. They were supportive of double mounting but this would need an encroachment agreement.

Lake Park Boulevard and Cape Fear Boulevard - DOT evaluated this location and had some possible solutions but said they could not confirm anything at this point but would get back to the Town on their recommendations.

c. Request from Fire Chief to Take Over Inspection of Fire Works Shows

Chief Griffin explained the request from New Hanover County. Currently New Hanover County conducts the inspections of pyrotechnic shows in Carolina Beach. They have asked the Carolina Beach Fire Chief to take over this responsibility. The County will draft a resolution to delegate authority to issue permits within the corporate limits. They will vote on this at their April 15, 2019 Commissioners meeting.

ACTION: Motion to allow the Carolina Beach Fire Department to assume responsibility for the inspection of pyrotechnic shows in Carolina Beach and adding a line item in the budget for pyrotechnic permitting fees.

Motion: Joe Benson

Vote: UNANIMOUS

d. Presentation by Chief Griffin Regarding the Replacement Ocean Rescue Vehicle

Chief Griffin presented a request to replace the 2008 F-250 that was sold at auction in February.

ACTION: Motion to approve \$34,000 from the general fund into the 10-520-074 account with the intention of having it reimbursed by ROT funds.

Motion: Steve Shuttleworth

Vote: UNANIMOUS

e. Council Member Shuttleworth asked if we make our requests for ROT dollars quarterly or annually.

Council Member Pierce said every three months they are asking for money and she felt that it used to be one annual request. She said she would rather make one request per year.

Council Member Shuttleworth asked Lucky to follow up with what's allowed and what's reimbursable.

8. NON-AGENDA ITEMS

a. Council Member Shuttleworth mentioned that he will be out of town on the 22nd and 23rd. He also mentioned that Council has not met with the new manager to lay out expectations.

Council Member Shuttleworth asked the Town Manager to look into a 2% open space tax.

Ms. Fox reminded Council that the Harris Teeter/Publix/Carolina Beach matter will be heard at the

Court of Appeals in Raleigh on Wednesday at 9:30 am if anyone wants to attend.

9. CLOSED SESSION

- a. Closed Session to Discuss a Real Estate and Personnel Matter

ACTION: Motion to go into closed session to discuss a real estate and personnel matter in accordance to NCGS 143.318.11(a)(5) and (6). The properties being discussed include 601 Carolina Sands Drive for the purpose of access and 310 Canal Drive for the purpose of parking.

Motion: Joe Benson

Vote: UNANIMOUS

10. ADJOURNMENT

ACTION: Motion to adjourn at 10:05 p.m.

Motion: Joe Benson

Vote: UNANIMOUS

Adopted at a regular meeting on May 14, 2019.

Recorded by Kimberlee Ward, Town Clerk