

CAROLINA BEACH

Regular Town Council Minutes
Tuesday, May 8, 2018 @ 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 Tuesday, May 8, 2018 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 Michael Cramer, Finance Director Debbie Hall, Town Clerk Kim Ward, and Town Attorney Noel Fox

1. MEETING WAS CALLED TO ORDER WITH INVOCATION BY REVEREND MOLLY PAINTER 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. Selection of Engineering, Legal, Surveying, Asbestos Inspection Services for the FY16-FY18 Flood Mitigation Assistance (FMA) Programs

ACTION: Award bid to;
Legal Services to the Law Office of Ned M. Barnes.
Surveying Services Contract to Robert Goslee & Associates.
Asbestos Inspection Services Contract to George Keenan Construction & Consulting Company.
Engineering Services Contract to Chris Holmes, P.E. & Associates, Inc.

Vote: UNANIMOUS

- b. Approve Kure Beach & Fort Fisher Aquarium Sewer Rates

ACTION: Approve Kure Beach and NC Aquarium at Fort Fisher sewer rates AT 0.7254 which are retroactive to July 1, 2017.

Vote: UNANIMOUS

- c. ROT Funding Reimbursement Request from TDA Board
 - ACTION:** Approve the reimbursement request/application to the New Hanover TDA Board in the amount of \$ 207,299.28
 - Vote: UNANIMOUS
- d. Set a Public Hearing for June 12, 2018 at 6:30 PM to consider adopting the Fiscal Year 2018-2019 Annual Budget Applicant: Town of Carolina Beach
- e. Set a Public Hearing for June 12, 2018 at 6:30 PM to consider a Conditional Use Permit for Latella Gelato to be classified as a bar to serve alcohol located at 11 Boardwalk unit 110. Applicant: Latella Gelato Inc, Jeanie Shaffer
 - ACTION:** Set Public Hearing
 - Vote: UNANIMOUS
- f. Set a Public Hearing for June 12, 2018 at 6:30 PM to consider adopting the new flood maps and flood damage prevention ordinance Applicant: Town of Carolina Beach
 - ACTION:** Set public hearing
 - Vote: UNANIMOUS
- g. Budget Amendments & Transfers
 - ACTION:** Approve the budget amendments and transfers as presented by the Finance Director.
 - Vote: UNANIMOUS
- h. Approval of Minutes
 - ACTION:** Motion to approve the minutes from April 10, 18, and 24, 2018.
 - Vote: UNANIMOUS

4. SPECIAL PRESENTATIONS

- a. National Safe Boating Week Proclamation

Mayor Benson read and supported Proclamation #18-2183 Proclaiming May 19-25, 2018 National Safe Boating Week.
- b. Marketing Advisory Committee Budget Presentation

Miles Bielec, Chairman of the Marketing Advisory Committee presented their FY 18/19 budget. The TDA is expecting an increase of 14% in Room Occupancy Tax which would equal \$589,845. There would be a 10% hold back. The Town is sitting on \$232,000 of funds unspent from rollover.

 - ACTION:** Motion to approve the 2018/2019 Marketing Advisory Committee Budget.
 - Motion: Steve Shuttleworth
 - Vote: UNANIMOUS
- c. May - June Special Events

Brenda Butler gave an update on the May and June events.

d. Project Update - Gil DuBois

Gil DuBois gave an update on the following projects:

- * The paving project on Bridge Barrier should be finished tomorrow and striped before Memorial Day.
- * The parking lot at the lake was paved. There were some drainage issues and the Town did the work. They had it tapered so there is an inverted crown in the parking lot.
- * The cross walk for Dow Road at Harper has been ordered and should be here in 3 weeks. There will be signage.
- * There will be a contractor doing pot hole repair through next week. They completed 25 patched today.
- * Staining of the boardwalk is complete.
- * They have poured the last section of concrete for the Marina Phase 1 Project. They should be finished by the end of Memorial Day or the 1st week of June.
- * Piles have been set and the concrete structures are balanced for the Waste Water Discharge Pipe Project. They are still waiting on the fasteners.
- * The Teakwood storm drains have been lined and the sedimentation basin should be in within the next two weeks.
- * Phase C plans should be in Raleigh in the next 10 days.
- * Phase B should have all paving completed by May 18th.
- * The website has all on call phone numbers listed for emergencies. Residents should not be calling Council Members or staff directly to report an issue.

Council Member Pierce asked staff to put these numbers on Facebook.

MPT Bridges mentioned that the well house by the lake looks outstanding.

Council Member Shuttleworth asked where the funding came from for the lake parking lot.

Mr. DuBois replied that the asphalt will come out of the lake dredge project because the damage was done as a result of that project. The infrastructure and storm drainage work was completed by Town staff with materials on hand.

Council Member Shuttleworth asked how the budget for the Marina Phase 1 came out.

Mr. DuBois replied that as far as he knows it is within budget but asked Mr. Cramer to respond.

Mr. Cramer said there are two different phases. It is still in budget but they had to tap in to some contingency for the inlet box and other miscellaneous improvements. There were \$860,000 worth of improvements that were paid by FEMA 100%.

Mayor Benson asked Mr. DuBois to let Council know if there will be any delay in Phase B paving.

Council Member Shuttleworth asked Mr. DuBois to give an update on the sod and if someone is communicating with the residents on how to take care of and who is going to take care of it.

Mr. DuBois replied that all the sod has regeneration in the bottom of it. It has green new growth. T.A. Loving will continue to water and replace it if there is a problem.

5. PUBLIC COMMENT

- a. Jeanie Mintz, 205 Georgia Avenue stated that the tenants at 117 Georgia Avenue are being allowed to run a dump. They moved to 1317 Canal Drive and are putting junk out there as well. Animal services has been out and took 13 dogs.

Council Member Pierce said that he was issued a letter of violation today and the Code Enforcement Officer spoke with him.

Mr. Cramer said that there is a 30 day time period to resolve the issue or the Town can abate.

Patrick Boykin, 702-2 Elton Avenue is concerned about the Pedal Pub going through Elton Avenue to get to State Park. There are 46 housing units in that area now and traffic will be a safety issue.

Susan Whitaker, 1313 Swordfish Lane spoke in favor of the pedal pub.

Debra LeCompte, 307 Charlotte representing the Police Advisory Committee stated that the committee did have concerns when applicants first came and gave them a list of concerns. Those include:

The size of the vehicles takes up a whole lane which makes passing difficult.

It travels half the speed of a golf cart.

They are concerned about the noise from the music and riders.

They should never be allowed on Dow Road.

Loading and Unloading at the gazebo should not be allowed because police use this area.

The Hampton Inn is not safe location to load and unload.

The recent traffic study of Lake Park Boulevard says that it is one of the most dangerous corridors in the state.

There have been 2 major accidents reported with pedal pubs.

Amsterdam has banned pedal pubs.

The Police Advisory Committee voted unanimously to stand against pedal pubs at Carolina Beach.

Michael Rose, 4 North Carolina Avenue is in support of the Pedal Pub and feels it is not just a rolling bar. He feels it will help support other business.

Mike Urti, 1306 Snapper Lane and co-owner of Jack's Retreat is in support of the pedal pub.

Jerry Bagnell, 1601 Swordfish Lane said that Mayor Saffo of Wilmington said they get complaints about their pedal pubs and MPT Margaret Haynes said the biggest mistake they made was approving the pedal pub.

Lynn Conto, 807 North Carolina Avenue thinks the pedal pub is a great concept but it is not right for Carolina Beach. She feels the hours are extreme and Council should consider residents.

Fred Grady feels that Council should give them a year to try it out. He also asked about when

construction will finish on Cape Fear. Council Member Shuttleworth said it is probably 30 days out.

Jay Healy, 701 Charlotte said that Property Brothers had a segment on pedal pubs and he thought it was a fresh idea.

Laura Hamlet, 1414 Snapper Lane said that she feels businesses don't make Carolina Beach, the people do. She is in favor of the pedal pub.

Joe Tyron, 619 Hamlet Avenue is in support of the pedal pub and feels the applicant has done their due diligence. He stated that you can always pull their permit.

Greg Bell, 206 Ocean Blvd feels that Council should consider how business is doing their financing not the opinion of others. He feels that motorcycles and after market mufflers make more noise than the pedal pub would. As the business owner, he will not allow riders to get out of hand with trash and noise.

Patrica Jones, 612 Carolina Beach Avenue North asked Council to please consider the pedal pub. She feels that the Town puts applicants through a lot to start a business. She also encourages drivers to slow down. She would like the Town to have a committee that helps businesses come to Carolina Beach.

6. PUBLIC HEARINGS

- a. Public Hearing to hear a presentation regarding the adoption of changes to the Rate and Fee Schedule related to System Development Fees

Daryll Parker with Willdan Financial Services presented the proposed System Development Fees.

Council Member Shuttleworth asked if this was geared to new development.

Mr. Parker replied that it is strictly new development.

Council Member Shuttleworth added that most of what Carolina Beach deals with is redevelopment.

Mr. Cramer said that you will see a reduction in rehabilitation fees but you will see an increase in the new development.

Council Member Shuttleworth asked who would have a 2 inch meter.

Mr. Cramer replied that it would be condos, hotels, and motels.

Ms. Fox stated that this came from the Quality Built Homes Inc., versus Town of Carthage. The Town has no flexibility on this, that's why a professional was hired.

Council Member Shuttleworth stated that you can go lower on the fees, you just can't go higher.

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

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

Ms. Fox added that the House Bill was effective October 1, 2017 but Towns have a grace period until July 1, 2018.

Mr. Cramer reported that the changes will be in the rates and fees schedule and will be effective July 1.

Council Member Shuttleworth asked if the Town would hold all payment of system development fees for new buildings until July 1.

Cramer said yes.

ACTION: Motion to adopt system development fees as presented in the budget.

Motion: Joe Benson

Vote: UNANIMOUS

- b. Conditional Use Permit: For a Body Piercing establishment to be located at 1009 N. Lake Park Blvd unit B2 in the Highway Business (HB) District Applicant Jesse Gurganus

The Town Clerk sworn in the following:

Town of Carolina Beach Senior Planner Jeremy Hardison

Applicant Jesse Gurganus Pleasure Island Tattoo

Mayor Benson: At this time I would like the Attorney to give an overview of a quasi-judicial hearing.

Ms. Fox: This is a quasi-judicial matter which means it is an evidentiary hearing much like a court decision. Council must follow the specific procedures required by State law in making its decision. Specifically, Council's discretion is limited. Council must base its decision upon competent, relevant, and substantial evidence in the record. If you are speaking as a witness, please focus on the facts and standards not personal preference or opinion. If you intend to testify, please do not offer unsupported opinions or speculation. The Council cannot consider this testimony. Please limit your testimony to relevant and competent, substantial and material evidence.

Before we begin, does any member of Council have any partiality to disclose and recusal to offer? Hearing none, does any Council Member have any ex parte communications to disclose? If you have visited the site or had any conversations, please disclose them. If any member of Council has an objection to any council member's participation, say so and the Council will then vote on whether that Council Member can continue.

Senior Planner Jeremy Hardison presented the request:

Mr. Hardison: Mayor and Council, this is a request for a body piercing establishment located at 1009 North Lake Park Boulevard within the Pleasure Island Plaza. The use is proposed in the existing Pleasure Island Tattoo unit. This is an additional service that they would be providing. The

Pleasure Island Plaza was built in 1984 and consisted of 14 units. Today, the uses are retail, offices, and some services such as hair and nail salons. Earlier this year, Council amended the ordinance to allow body piercing. Within the ordinance there are certain distance requirements that they have to meet from a residential district, church, school, park, playground, or other body piercing establishments which we currently do not have. This would be the first. The buffer requirement for residential, churches and schools is 200 feet. The closest one is in the R-1 one district and is measured from the rear of the building to the edge of the district. The applicant must meet seven specific standards that are ordinance related. The ingress and egress, parking, refuse, and required parking space is not changing because they will be within an existing unit and not modifying or enlarging the structure at all. There are no utility upgrades or landscaping required. There is an existing landscape buffer. There are also four general conditions that must be met. The use would not materially endanger the public health or safety. The New Hanover County Health Department regulates this use for safety and sanitation. They would have to be permitted and inspected by them.

The Town has reviewed the proposed requirements and finds that the proposal meets those ordinances. The use would not substantially injure the value of adjoining or abutting property. The use is keeping with the character of the area, providing service type uses as provided in the current plaza. In the Land Use Development Plan, the area is designated as commercial-1 which the desired uses include: restaurant, retail, office and services. It does not specifically address body piercing.

Planning and Zoning heard this last month and recommended approval 6-0 stating the proposal met the seven specific standards and the four general conditions and met policies within the Land Use Plan. The approval must be consistent with the findings in the Zoning Ordinance or a denial must be specifically stated by Council on which one it does not meet.

I will answer any questions you may have. The applicant is here to speak on the subject.

Mayor Benson: The applicant may now present the evidence or legal argument in support of the request.

Applicant Jesse Gurganus: Good evening Mayor and Council. I am Jesse Gurganus co-owner of Pleasure Island Tattoo in Carolina Beach. We are here to get this approved. We meet all of the standards and should meet all of the standards with the Health Department as well. We meet all of the distance requirements as well. If you have any questions, I would love to answer them.

Mayor Benson: Does the Board have any questions for the applicant? Hearing none, does the applicant have any other witnesses to call? (No one spoke).

Mayor Benson: I'd like to make a motion to open the public hearing. Motion carried unanimously.

Mayor Benson: Would anyone like to speak on behalf of the conditional use permit? (No one spoke)

Council Member Pierce: Jeremy, this is an additional CUP not in connection with the current CUP for the tattoo shop, correct? There will be two separate CUP's for that location?

Mr. Hardison: That's correct. There are two distinctive uses authorized under a Conditional Use Permit.

Council Member Pierce: Are these the same distances that are required for the tattoo shop?

Mr. Hardison: They are.

Council Member Pierce: If the applicant were to move from that location, would the CUP stay with that location?

Mr. Hardison: It would go with the land.

Mayor Benson: Any other questions for staff?

ACTION: Motion to approve the Conditional Use Permit for a body piercing establishment to be located at 1009 North Lake Park Boulevard, Unit B2 in the Highway Business District and find that it meets the four general conditions and the seven specific standards.

Motion: Steve Shuttleworth

Vote: UNANIMOUS

- c. Public Hearing to allow the public the opportunity to give feedback on the FY 2018-2019 Budget

Mr. Cramer stated that this item was to allow the public the opportunity to provide feedback on the FY 2018-2019 Budget.

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

Fred Grady said that residents are concerned about the debt and asked that the Town report to the residents how in debt the Town really is.

Mayor Benson made a motion to close the public hearing.

Council Member Shuttleworth feels it is difficult for the public to comment on a budget that is not complete. He suggested having an additional budget meeting in June to provide another opportunity for the public to respond.

Mr. Cramer said that he would set up a special meeting.

7. ITEMS OF BUSINESS

- a. Consider approving a Commercial Pedal Vehicle application to authorize tours and the consumption of alcohol by passengers. Applicant: David Hamlet and Tina Bell

Mr. Cramer presented the application from the Pleasure Island Coastal Cruisers.

They are requesting the following waivers:

Loading Waivers:

Bus Loading Zone on Carl Winner Ave at Marina

Truck Loading Zone on Raleigh St

Driveway at Havana's on Cape Fear Blvd

Business Loading Zone at End of Harper

Gazebo Loading Zone at corner of Cape Fear Blvd and Canal Dr

Route Waivers:

Sporadically use Lake Park Blvd and Dow Rd

Transportation Waiver:

Use Lake Park to transport pedal vehicle for service

Staff recommends considering the application with the waivers. They feel that the business would not be successful without the waivers. They also suggest having an operational review next spring to evaluate the business.

Council Member Garza asked if the applicant understands that their business could be affected by the operational meeting in the spring.

Mr. Cramer replied that they did not discuss that.

Matt Hamlett and Tina Bell presented the proposed routes for the pedal pub.

MPT Bridges said that he is concerned about having to make so many waivers for an ordinance that was just approved. He stated that he is still not in favor of the application.

Council Member Pierce is concerned about safety and feels that Lake Park Boulevard is always dangerous even in the shoulder season.

Council Member Garza is in favor of giving the business a shot but also has some safety concerns. He is also worried if the Town does not like it, they will lose that investment.

Mayor Benson said it was a great presentation.

MPT Bridges wanted to emphasize that you are basically undoing what you just passed.

Council Member Pierce stated that she feels that this a very difficult decision.

Council Member Shuttleworth added that it is a very difficult decision and he has met with applicants several time. He mentioned that Ethan Crouch suggested to him that Council needs to be as concerned for the residents as tourism. He added that the traffic study says Lake Park Boulevard needs to be redesigned because of safety concerns.

Council Member Garza mentioned that the study didn't include bicycles or golf carts.

Council Member Shuttleworth concluded that this is a pedal pub that is designed to bar hop. He

doesn't think he can support it.

ACTION: Motion to approve the pedal pub application as presented with the requested waivers.

Joe Benson (Moved By)	For
Tom Bridges	Against
LeAnn Pierce	Against
Steve Shuttleworth	Against
JoDan Garza	For

Vote: failed

8. NON-AGENDA ITEMS

Council Member Garza asked if the Town has a tree ordinance.

Mr. Cramer replied that there is not a tree ordinance and that it has not been discussed since he has been at the Town.

Council Member Shuttleworth said that he would like to see a tree ordinance that include replanting.

Council asked to have this discussion at a workshop.

Council Member Garza asked if the Town is collecting stormwater.

Council Member Shuttleworth reported that municipal systems are available and towns like Pine Knoll Shores have them.

Council Member Pierce asked about solar panels and if there were any grants available.

Mr. Cramer said he could look for some information and bring back some sustainability items.

Council Member Garza asked if the showers in town are on timers.

Mr. Cramer said that they are push button. Staff shuts some of them off at night.

Council Member Garza asked if the RFP for the parking deck allows them to build up.

Council Member Shuttleworth responded that Council asked Mr. Cramer to go to the private sector and ask how they would set up an RFP for a public private partnership. Council can dictate what it looks like and how high it can be.

Council Member Pierce reported that the Police Advisory Committee reinvented the coffee with a cop program. The first one will be June 6 from 8-10 am at the Celtic Creamery.

Deb LeCompte informed Council that they are also supporting an adopt-a-cop program. They will be leaving something for each officer every day next week. She also said that they have started a Facebook

page "Love our CB Cops".

Ms. Fox reported that there was a hearing on April 24th which was the appeal for Jubilee Carolina vs Town of Carolina Beach regarding the Harris Teeter vs Publix Conditional Use Permit. The judge entered an order on May 3rd ruling that the Town Council's decision was confirmed. They will have to appeal the judges decision if they want to continue with the process.

9. CLOSED SESSION

- a. **ACTION:** Motion to go into closed session to discuss an attorney/client matter and a personnel matter in accordance to NCGS 143.318.11(a)(3) and (6).

Motion: Joe Benson

Vote: UNANIMOUS

10. ADJOURNMENT

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

- a. **ACTION:** Motion to adjourn at 10:30 pm.

Motion: Joe Benson

Vote: UNANIMOUS

Adopted at a regular meeting on June 12, 2018.

Recorded by:

Kimberlee Ward, Town Clerk