



**CAROLINA BEACH**  
**TOWN COUNCIL MEETING**  
**MINUTES • SEPTEMBER 27, 2016**

**Council Chambers**

**Workshop**

**6:00 PM**

**1121 N. LAKE PARK BLVD.**  
**CAROLINA BEACH, NC 28428**

**I. CALL TO ORDER**

MPT Pierce called the meeting to order.

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrived</b>
Dan Wilcox	Mayor	Late	6:15 PM
LeAnn Pierce	Mayor Pro Tem	Present	
Steve Shuttleworth	Council Member	Present	
Tom Bridges	Council Member	Present	
Gary Doetsch	Council Member	Present	
Ed Parvin	Assistant Town Manager	Present	
Kim Ward	Town Clerk	Present	
Noel Fox	Attorney	Present	

**II. DISCUSSION ITEMS**

a. Arts and Activities Committee Presentation - Kiosks

*(Requested by Michael Cramer, Town Manager's Office)*

Al Watkins with the Arts and Activities Committee presented ideas for the information kiosks. A model was given for council and staff to look at. An overview was presented at a previous council meeting which was briefly reviewed. New design, represented by model, is an A frame with posts, benches, case and solar lights. Committee would like to modify it with a gazebo roof. Map would include important locations and would be on one side with document case on the other. Costs were reviewed - A frame total \$2,180.00, gazebo roof design would cost more. Kiosk locations to be considered - boardwalk by Hampton Inn, photo opportunity area by Putt-Putt, Mike Chapel Park between ball field and playground, marina near Winner and Canal Drive intersection, lake (walk parallel to South Lake Park Blvd., south entrance to park off South Lake Park Blvd., stage area or north entrance, parking area next to play area, west entrance off Fourth Street). Updating of events at kiosks done by events coordinator at town. Committee is still looking for cases for the kiosks and possible sponsorships. Moving forward - determine management, will need to finalize cost estimates, determine funding, design drawings.

b. Stormwater Project Update

*(Requested by Michael Cramer, Town Manager's Office)*

Gil DuBois gave update on flooding issues. The main discharge pipe coming down Lake Park discharges into marina. We are working with engineers and topographical lays for this area. We could replace the 18" pipe with 24" concrete pipe going up to Third Street, cross Mr. Masterson's property through Troy Slaughter's property, continue to The Glenn and back to Winner Avenue. This pipe would carry water from Ocean Ridge to Glenn and any subdivision upstream of Winner as a primary discharge route. This primary route and a secondary route would control flooding from this point to the Microtel Hotel. Winner Avenue stormwater pipes are multiple

sizes creating a bottleneck. Replacement of some pipes with 24" pipes and addition of inlet boxes drawing shown. This is a two step process with two projects and would give two avenues for discharge. Costs for everything on Winner Avenue is about \$69,000; section behind Mr. Masterson's property about \$64,000; and section on Goldsboro about \$35,000 for a total of approximately \$236,000. We would need rights-of-way from Mr. Masterson, The Glenn and Mr. Slaughter. Work on Winner could be done while waiting for easements. Property owners have been contacted. DOT has been contacted for work on Winner and agreed to be involved. Surveyors are currently looking at areas around Goldsboro and Magnolia. If council agrees, he could send out to bids and return for approval of funding in October. Winner project could start November/December and would take about 3-4 weeks to complete. Council agreed to start bid process.

Allen Masterson asked about catch basins and undeveloped land on Goldsboro.

Gil DuBois - There is a swale in that area needs to be maintained by the property owner.

Mr. Masterson asked about vegetation on each side and setbacks.

Ed Parvin - It will depend on what you are doing there. Typically for a side or rear setback you are looking at 10 feet so it would be a 2 1/2 foot impact. Zoning setbacks are just from the property lines.

David Pierce would like to clarify one thing Gil said about manhole covers and additional boxes and some were overflowing onto properties and would replace ours. He wasn't saying ours were overflowing onto properties?

Gil - Right.

Mr. Pierce thanked Gil and town for work preventing flooding on his property.

Gil - We will have property owners look at plans for comment and input before beginning work.

c. Review amendments with MB-1 zoning district associated with Marinas

*(Requested by Jeremy Hardison, Planning and Zoning)*

Jeremy Hardison presented issues that were brought up at the August meeting: Conditional Use Permit vs Use by Right, purpose/characteristics of MB-1, landscaping questions, Federal Point CUP approval, regulations in other communities, current inconsistencies with Carolina Beach Marina. A CUP offers more control and what those conditions are were reviewed. Permitted by right with standards and no standards and CUP now permitted by right was reviewed. MB-1 characteristics/vision, desired future land use, what is permitted by right and by CUP defined. History of marina business area was given and a summary of what is there today. Landscape buffer yard requirements, history of Federal Point Marina and Yacht Club (gravel parking area in right-of-way not designated in CUP), what other communities require for marina districts (all require landscape buffers) and recap of chronology reviewed. In 2016 the town met with David Pierce to discuss issues. There appeared to be an expansion of the CUP. Mr. Pierce applied for a text amendment to see if that would allow removal of the CUP requirement for marinas vs a CUP modification which has been tabled.

Mayor Wilcox questioned the definition of marina which was identified in multiple areas of the town code. He feels they conflict with each other and is something staff

should look into.

Jeremy - There are inconsistencies at boat yard and marina. A summary of identified violations was shown. A violation letter was sent to David Pierce for expansion of his CUP.

Noel Fox - We have had several conversations with code enforcement and zoning staff about the need, even if there is an applicant who is working with the town either for a text amendment or CUP modification, it is very important for town staff to memorialize the violations in writing. From a uniform enforcement of the town's ordinance standpoint, we have been working on that issue from code enforcement as well as zoning.

David Pierce said that whatever council wants him to do, he will. He went through inconsistencies for explanation: 909 Basin Road - Tom (Tom's Marina) came to him 6 months ago. They lease the property together but it has nothing to do with Carolina Beach Boatyard at this time. Long term, he and Tom are planning to do big marina projects together. They are trying to acquire the properties piece by piece in the meantime. This is just a way for us to get our hands on the property and acquired until it comes up for sale, but we have some control over the property. Pictures of 909 Basin Road are depicted in yellow outline. Boats and trailers belong to both of them. There is not an office. There is a yard right behind it that also has trailer storage. 923 Basin Road picture shows a portable rack which are not inspected. They are not anchored to the ground, they are primarily for service racks which is what we are using them for. I called before I bought it for this very reason. I wanted to get something that could be moved around like a tool. You can call Roof and Rack and they will explain to you how other municipalities treat portable racks. He spoke with Richard about it 2 years ago. Anything portable or on wheels he has nothing to do with it.

Council Member Doetsch - How does that fit in with your site plan if you specify it in one area and then decide you need it in a different area? My concern is, suppose that rack ends up next to the fence that belongs to the housing development to the south of you.

David Pierce - The portable rack is 12 feet off of the property line and meets the setback. The housing development has a fence and a landscape buffer. I don't know how we regulate portable items. I put it in this spot for a reason. It's not beside the house. When you drive in, it's easier for the mechanics to get to it. It could be moved. The fence is in disrepair. In picture it is actually a gate, the fence belongs to Federal Point and not me and is not in disrepair. The pictures shows a gate leaning up against the fence. It is not mine and shouldn't be there. I have no problem getting it out of there. Parking - the boats are in designated parking spaces and shouldn't be and I will do a better job. 917 and 919 Basin Road: Shelter on wheels - the metal shelter moved around to boats we are working on. It is parked next to my house but moved to other areas when needed. CUP expansion - I don't know how to answer that. It is and it isn't. It is because I am doing more work there that's in the CUP but I bought all the properties individually like the one here in the picture that says driveway cut off Basin Road added. That's a 50 foot lot which is not used by public. It's used by me and Eric and whoever is over there. Without that there, there is no access to that lot unless I go through the boatyard which we do but we're kind of saying don't put a driveway cut but don't access it from the CUP. I'm trying to get this CUP where Jeremy and Ed can work with it, so these kinds of things can be figured out. Everything right now is basically a three month process so I am trying to get it where this lot here is a part of the boatyard, where

technically now it is not. The CUP says it's not.

Council Member Shuttleworth - Have you thought about coming in with a new CUP site plan?

David Pierce - Yes and I'm going to but the problem with that is, like the woods to the right, those woods have a third party trying to buy that property. What if it changes again?

Council Member Shuttleworth - That is the nature of a CUP. Modifying a CUP is not an arduous process. You kind of morphed into a variety of different lots over there. Whether the uses are there or not, they are all kind of ancillary uses of your marina boatyard. The simplest thing is just to come in with a site plan saying this is what I'm doing. If you add another lot down the road then you modify it again.

Mayor Wilcox - This lot (919 Basin Road) is outside the CUP and you say it is there because the lot behind it would be landlocked?

David Pierce - I'm addressing the access, number 3, driveway cutoff Basin Road added. That lot has nothing on it.

Mayor Wilcox - It's not part of the CUP. So is staff saying it's a violation of the CUP or is it related to something else? You can't hold somebody in violation of a CUP when they are outside the CUP unless there is some compelling reason I haven't heard yet. I'm just trying to determine what is inside the CUP and what the violations are. There are some ancillary uses going on back and forth and that's another issue to look at.

David Pierce - If I get another site plan drawn and if I draw on that site plan potential purchases, the disadvantage to me is if the property owner gets a hold of that, the price just went up. I could get it drawn and then the next week I get another piece of property and now that drawing is no good anymore. The CUP process is very time consuming. What I am trying to do is do what the town wants me to do and on the same hand make it feasible because if I go through 5 CUPs, which is very realistic, in the next 2 years, I spend more time up here than you guys. There are 7 more properties but I might not get them.

Council Member Shuttleworth - My answer to you is yes, you would have to go back and do a CUP each time. That's the purpose of the CUP and the site plan. You have been in business long enough to know and pretty much know what you're doing over there. You pretty much know what's got Ed and Jeremy between and betwixt on how to address those definitions.

David Pierce - I absolutely do, but I just don't think it's right. This whole CUP, this text amendment came when I came in and talked to Ed and Jeremy and the best scenario was a text amendment change. That was not just me, that was also Jeremy and Ed. So it's not me trying to change everything, it's what works best for the town and the investors who are trying their best and make it work.

Council Member Doetsch - To save you from any escalation in property prices that you don't have yet it sounds to me the CUP process is the quickest and easiest route to go. That way you don't have to claim anything on the site plan and then you just come back to modify your CUP with us at whatever point in time.

David Pierce - Maybe it's the particular right way for the town and if it is I will work

with you.

MPT Pierce - I see we're being asked is it by CUP or by right. Is that what we're being asked? Forget whether David has violations or inconsistencies.

Noel Fox - The text amendment was for the marina to be allowed by right without the necessity of a CUP. As it stands right now the marina and marina use of property in the Marina Business district for a commercial marina does require a CUP.

MPT Pierce - This affects all of Marina Business.

David Pierce - I don't even know if I am a marina. To me, and I guess it is something we should all research, when you think of marina you think of boat slips, docks, clubhouses and things like that. The definition reads and it said a commercial marina was when it's in a neighborhood. My understanding of that is when you have a development, the neighborhood builds a marina so it really doesn't make me a commercial marina. So I don't know that if by right if Mona Black, for example, were to say, David, we're going to start working on boats on our extra land and we want you to bring boats through a gate and set them on our property. Can I do that? I'm not crossing public ways, it's private property to private property. I don't know who can answer that question?

Mayor Wilcox - Boat repair is by right in Marina Business. Anything that can be sold can be serviced. David, the way this reads is not that all commercial marinas are in residential. It says, if the commercial marina is located in a residential development which caters to the general public, provides goods or services for sale and/or if located in a private development... there are two scenarios there. Your question is good. You're doing boat repairs, storing trailers and boats, sales - all of those things are allowed in Marina Business. Dry stack is allowed in Marina Business district. He doesn't have boat slips where people stay. He's got a dock that he puts the boats at that he's working on, pulling them in and out. It's not a marina in the sense of this description and everything they are doing within that facility is allowed by right already. I'm struggling with this being lumped into a marina myself.

Noel Fox - I think that the applicant, when he filed for his CUP many years ago, identified himself as being a commercial marina. We have a definition in the zoning ordinance, Chapter 40, that addresses what a commercial marina is. So if that is not the use that his business has morphed into then maybe he is not actually operating as a commercial marina per his application for the CUP.

Mayor Wilcox - The name of it is boatyard and marina. I can call my restaurant anything and that doesn't change the use.

Noel Fox - His application was for a CUP for operation of a commercial marina.

Mayor Wilcox - I can understand how someone could be confused about a marina because I am still confused.

Council Member Doetsch - Sounds like to me we would be better off going back and developing a classification for a full service boatyard and that is essentially what you are.

David Pierce - I think there is already definitions out there for all of this stuff but that is kind of irrelevant. I am going to do what you want me to do. I am going to get the CUPs redrawn but I just want you to know that I am working with you. There

are several things that I see that I don't think are right but in the big picture it doesn't matter.

Mayor Wilcox - If the additional lots that are being acquired are for things already allowed by permit, your question a minute ago was can you have a gate between two pieces of property? If you have one business here that does commercial boat repairs and a business here that is a boatyard and he does things that you don't do, why would you not trade business? This is allowed by right.

Noel Fox - From a technical standpoint, if the use is not allowed by right then the adjacent property owners have a right to have notice that the use is going to occur because the use is conditional.

Mayor Wilcox - I'm talking about uses that are both allowed by right. These uses are all allowed by right.

MPT Pierce - So you're saying he could do anything he wanted if he wasn't a marina, anything he is already doing?

Noel Fox - I'm not certain that is exactly what I said.

Mayor Wilcox - My question is if you have a business here on this lot that is doing boat storage and boat repairs and you have a business over here that is doing a similar thing but he has a lift, he can pull boats out and put them in and has dry stack, all of that is allowed under our current ordinance as a permitted right. What is the problem with these guys sharing business? If everything is allowed by right, why is it an expansion of a CUP and why do you need to change a CUP? Is it the same business?

David Pierce - I have two permits. I've got a CUP because I foresaw this and what I was trying to do is go the legal way. Removing the fencing from adjacent lot - it's my house and it's my lot that I bought beside it which neither one has a CUP so why that is even a CUP conversation I don't know. Well, I do know because there are boats everywhere. The fence is on my personal yard. 914 St. Joseph, upper left-hand corner, it's based on Jeremy's conversation when he was explaining all of this, buffer zones were required not fences to a vacant lot. I was under the impression it was the reverse. I thought fences were required and not buffer zones so I put a fence up but I have no problem putting a buffer zone there if that is what is required. It was a misunderstanding on my part and I apologize and I will get it fixed. Next one, removal of buffers and cut through to marina. Again, this St. Joseph piece I bought and I got a business license that said I can work on boats, store boats, paint boats, sell boats, sell boat parts or any other accessory business for boating on this lot as a separate business.

Council Member Shuttleworth - You did that as a separate business but the reality is it's all a part of your whole business plan. That's where it gets grey. I'm going to figure out how to get a separate permit on this lot and then you connect it to the other business and you say I have two separate businesses.

David Pierce - You're on the right tract and I can explain why I did it because the big project, there's going to be boats there anyway. So what I was trying to do is do it the legal way until the big project got done.

Council Member Shuttleworth - Since I've been on council we have approved everything you have ever asked for. We gave you dry stack which is totally different

from what was allowed 15 years ago in Marina Business. We're seeing you do have a bigger plan but when you piecemeal it like that, like your landscape buffer. If you just come in with a clean plan and sit down with Ed and Jeremy... When you came in the first time we gave you some waivers and said maybe it doesn't make sense to have a landscape buffer and just do a fence, work on some parking. There was some give and take because we do want to encourage. You've been a successful businessman. I'm just saying, lay out a plan that says this is what I currently own, this is what I want to do and get it all in there. I understand that you're going to improve access by coming in off of St. Joseph, not off of Basin. I think that is great. But now you have kind of a cut through drive. We just had a meeting about stormwater. I don't know what you're doing when you piecemeal one lot at a time. I don't know how that handles all the stormwater. Come in with one CUP plan and say this is what I have, these are the uses that I'm doing rather than doing this.

David Pierce - I disagree with everything that you've said except the last thing. Unless you think through the process and how can I make it work legally you will always fail. Yes I got two business licenses on two properties but if I just bought that property and it was going to be four years for the rest of it I would just sit on it.

Mayor Wilcox - He took advantage of something that was available to him. My point was to the staff looking at it as an expansion of the CUP for some kind of violation. If it's on a different lot with a different business and it's permitted by right, let's figure out what is really within the CUP and what needs to be corrected within the CUP and ask Dave to address that.

Noel Fox - This has been a challenge because of the interconnectivity of the parcels and the advertising at the waterside and also at the new sign that identifies it as it being a commercial marina. The appearance to the person passing by is that the entire track is acting under a commercial marina CUP and it may not be the case and I think there has been a lot of co-operation and collaboration with the applicant and I think staff can do what you are asking but because of the number of parcels and the interconnectivity it is very difficult...

Mayor Wilcox - I don't think staff can do anything other than that. They can only address the CUP and anything that is being done that is not permitted by right. We don't have any authority on things that are permitted by right following rules that are available.

Noel Fox - You are correct, however, the violations are not just limited to the CUP. There are landscape buffers that are not being addressed in terms of the dry stack. There has been a lot of discussion with the applicant.

Mayor Wilcox - I'm not saying they shouldn't be addressed but let's concentrate on those things because those things are in the CUP.

Noel Fox - But the town is not addressing the violations of the CUP or a modification of the CUP because right now the applicant has applied for a text amendment.

Mayor Wilcox - My point is, let's separate the real CUP issues from a bunch of stuff on this list that are apparently on a different piece of property by a different business permitted by right. Let's figure out what is really within the scope, and that is what he needs to be notified of and what he needs to concentrate on. This is a whole bunch of stuff right here and we have already heard some of it is not valid or sounds like it. It's not within the CUP.

Noel Fox - There are violations on there that are not part of the CUP but there are violations under the town ordinance that are separate.

Mayor Wilcox - I'm saying there are things being used that are not violations that are not part of the CUP but are lumped in to the CUP expansion.

MPT Pierce - You can call Ed tomorrow and tell him how you want to move forward.

d. Towing Regulation Discussion

*(Requested by Michael Cramer, Town Manager's Office)*

Ed Parvin discussed some inconsistencies in the code regarding towing.

There are various types of towing signs out there that can cause some confusion.

The police department will maintain a list of who is allowed to tow.

Companies will have to go through an application process every year that will be due by January 15th.

Companies must be able to provide owners with their cars within 45 minutes and the tow yard must be within 15 miles.

We have listed requirements for what has to be on the tow receipt.

All of the towing companies fees must be provided to police department.

Trespass towing is allowed but there are requirements that must follow as well. They must contact 911 and provide information on the vehicle being towed.

We also updated the verbiage on the requirements for signs on private lots.

The dollar amounts for penalties and fees will go into the rates and fees section of the annual budget book.

Ms. Fox recommend that once the proposed or amended ordinance is approved that the Town send out notices of violation and educate them that they have a certain amount of time to comply.

Ryan McDade with Tow 2 Tow spoke in favor of the new ordinance and wants to work with the town to come into compliance with the new regulations.

Mayor Wilcox mentioned to Mr. McDade that he is unhappy with the posts that have made on Facebook from the the Tow 2 Tow page making fun of visitors and bragging about towing cars. This is not the image he wants for Carolina Beach.

Mr. McDade said that he took the Facebook page down because he did not want that negative image as well.

**III. ADJOURN**

Council recommended moving the October workshop to 9:00 a.m.

**Motion to adjourn at 9:30 p.m. Motion carried unanimously.**

Kimberlee Ward  
Kimberlee Ward, Town Clerk

10.11.2016  
Date Approved